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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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Special Rapporteur on the right to education

Addendum

Mission to Uganda
26 June - 2 July 1999

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Executive summary

The Special Rapporteur on the right to education visited Uganda from 26 June to 2 July 1999 upon the invitation of the Government. The objectives of the visit were to assess the realization of the right to education, especially experiences with universal primary education (UPE), introduced in 1997, in reducing financial obstacles impeding access to school, and to analyse the mainstreaming of human rights and gender into the policy and practice of the Government and the international creditor and/or donor community with regard to education. The Special Rapporteur, accompanied by a staff member of the Office of the High Commissioner for Human Rights (OHCHR), had numerous meetings with governmental actors, multilateral and bilateral agencies working in the field of education, gender and human rights, as well as non-governmental organizations and academic institutions.

The Special Rapporteur has applied human rights impact assessment to debt relief, structural adjustment and aid policies. This is deemed a suitable method for identifying and remedying negative impact and the first step towards mainstreaming human rights into international cooperation. The Special Rapporteur has found that Uganda's debt repayment takes precedence over its human rights obligations, thus undermining the priority required to be accorded them under international law. The increased political and financial support to UPE is a promising sign of greater international and domestic attention to creating a basis for effective recognition of the right to education. Integration of human rights into the sectoral strategy for education has been facilitated by the success of UPE. This has created an environment for translating the right to education into a reality instead of being perceived, as it often is, as a gift. The political commitment and the priority which UPE enjoys in aid and budgetary allocations provide the opportunity for designing the legal framework necessary to sustain primary education after donors' financial support and the accompanying conditionalities come to an end.

The Special Rapporteur has applied her "4-A scheme" (availability, accessibility, acceptability and adaptability) to analyse human rights obligations corollary to the right to education. She noted the huge challenge which Uganda is facing in ensuring the availability of schools and teachers for its youthful population. Securing access to school for girls has been prioritized, while the shift to inclusive education promises to improve access to school for children with disabilities. She has highlighted aspects of the acceptability criterion, ranging from the absence of all internationally prohibited grounds of discrimination to school discipline, evidenced by corporal punishment or the "disabling" of pregnant schoolgirls in the continuation of their education. With regard to adaptability, the Special Rapporteur has emphasized the need to accommodate expectations whereby education would be vocationalized so as to equip learners with income-generating abilities and skills and thus contribute to poverty eradication.

A series of recommendations, addressed to the Government as well as to the creditor and/or donor community highlights the steps necessary to integrate fully human rights, gender and education.

Introduction

1. On 9 April 1999, the Government of Uganda invited the Special Rapporteur on the right to education to visit the country. The Special Rapporteur visited Uganda in the exercise of her mandate from 26 June to 2 July 1999. She gratefully acknowledges the speed and efficiency with which the Office of the High Commissioner for Human Rights prepared her mission and facilitated her work in Uganda.

2. The objectives of the visit were (i) to assess progress in the realization of the right to education, with particular emphasis on the universal primary education (UPE) programme initiated in 1997; (ii) to appraise the experience and prospects of reducing financial obstacles impeding access to school; (iii) to review the interpretation and application of human rights obligations throughout the education process; and (iv) to analyse possibilities for mainstreaming human rights and gender in education, with particular emphasis on primary education.

3. The programme of her visit to Uganda was guided by the Special Rapporteur's approach to studying financial obstacles to access to education, which encompasses their international and domestic determinants, as well as identifying facilitating and inhibiting factors. The Special Rapporteur, accompanied by a human rights officer of the Office of the High Commissioner for Human Rights, met with officials of the Ministry of Education and Sports, the National Centre for Curriculum Development, the Ministry of Gender, Labour and Social Development, the Ministry of Foreign Affairs, the Prison Commissioner and his staff, the Uganda Human Rights Commission, and also UNICEF, the World Bank, USAID and the (United Kingdom) Department for International Development (DFID). Alongside these meetings, the Special Rapporteur had a series of informal encounters with representatives of human rights organizations and academic institutions. This wide range of actors, together with a great deal of documentation, enabled the Special Rapporteur to obtain an insight into the variety of influences upon and expectations arising from UPE, in its third year at the time of the visit. Not only UPE but the entire field of education has been marked by rapid change. Wherever possible, relevant quantitative and qualitative information is sourced to the documents made available to the Special Rapporteur during her visit. Where information could not be verified, this is noted in the present report. The Special Rapporteur sees her visit to Uganda as the beginning of a process aimed at mainstreaming human rights and gender throughout education. She is encouraged by the interest shown throughout her visit in linking education and the right to education. She is grateful to all those who shared their knowledge, experience and ideas with her, and appeals to them all to continue the dialogue started during her visit by providing her with feedback on the present report and with information concerning any developments relevant to the right to education.

4. There are two dimensions to the domestic framework which determines the fate of the right to education. The first consists of formally adopted constitutional and legal guarantees, macroeconomic and sectoral strategies, and institutional infrastructure aimed at translating them into practice. They are influenced a great deal by the compounded pressures of poverty and debt repayment. Dependence on international and foreign funding for most

human rights, gender and educational programmes is pervasive. This is well documented in primary and secondary written sources, which are widely available and have the advantage of the working language being invariably English. The second dimension is only revealed in a visit to a country. It encompasses the interplay amongst the historical heritage of the country, the current atmosphere there, the role of prominent personalities in shaping events, popular perceptions of these events and related expectations.

5. At the time of the mission, public debate was focused on the referendum to be held in the year 2000 concerning whether the movement-based political system should be maintained or a multi-party political system introduced. Security concerns ranged from the recent bombings and killings in the capital to the continuing warfare in the Democratic Republic of the Congo and in northern Uganda. Corruption seemed by far the favourite topic in the mass media. These issues derive their specific meaning and importance from Uganda's history, which did not leave a legacy that would facilitate the recognition and realization of human rights, or leave an educational infrastructure that would make recognition of the right to education possible. This legacy is reviewed below, with a summarized account of important political developments and a parallel description of educational strategies pursued (or at least planned) in previous decades.

I. THE HISTORICAL INHERITANCE

6. During colonial times Uganda was known as the pearl of Africa for its beauty, fertile land, lush vegetation and abundance of locally grown food. It became known again as the pearl of Africa in the early 1990s, when peace and security had been re-established in most parts of the country, a public administration had been built to provide essential services and a structural adjustment programme had been successfully implemented, keeping the rate of economic growth above 6 per cent, while servicing a huge debt. Decades of turmoil following Uganda's independence had much to do with the legacy inherited from the colonial time and prevented the forging of a State that would have overcome this legacy.

7. Uganda started her independence with a federal system (commonly referred to in Uganda as quasi-federal) which exacerbated the diversity of the country and further politicized ethnic, religious and linguistic differences. Education had a long history of missionary schools, with the corresponding content, methods and language of instruction, and did not contribute much to the articulation of a language policy or to a portrayal of Uganda's diversity in school textbooks.

8. Education introduced during the colonial times merged religious conversion and formal schooling with English as the language of instruction. By the time of independence, schooling thus orientated was established up to the university level. In the first post-independence decades, little was done to indigenize education or even to maintain public schooling. The result was a high illiteracy rate, especially in rural areas and among women.

9. The period 1962-1986 was authoritatively classified as the era of human rights violations by the Commission of Inquiry into the Violation of Human Rights (1986-1994). Its work covered the time between independence in 1962

and the takeover by the National Resistance Movement (NRM) Government in January 1986. The Commission faulted all previous Governments for institutionalized abuse of power. While the Commission was not the first body endowed with powers of investigating abuses committed by previous regimes, the implicit commitment in its establishment was that it would be the last such body and that institutionalized abuse of power would henceforth be prevented.

10. In 1995, constitutional and legal human rights guarantees started being adopted within Uganda's movement-based political system. This was followed by the establishment of the Uganda Human Rights Commission, while a host of other governmental institutions (the Inspector General of Government, the Auditor General, the Judicial Service Commission, the newly established Ministry of Ethics and Integrity, as well as the Public Accounts Committee of Parliament) have been set up to prevent abuse of power and are concentrating on exposing and opposing corruption. A large number of non-governmental organizations - international, foreign and domestic - work in Uganda in areas related to the right to education (such as social development, literacy, special education, gender, human rights) but few explicitly address that right, thus exacerbating the paucity of conceptual and analytical work necessary for its promotion and protection.

11. The Special Rapporteur acknowledges the extent of the obstacles in the path of full recognition and effective realization of the right to education in Uganda. Neither the colonial legacy nor the first decades of independence left the country equipped to address adequately education, human rights and gender equality, and least of all the right to education which cuts across all three of these areas.

A. The legacy of previous governments

12. Uganda's colonial history is often traced back to the penetration of the Imperial British East African Company in 1890 and the takeover by the British Government four years later. In between, a series of civil wars was fought between different religious factions (1891-1892). There was no country-wide struggle for independence in Uganda; some of the political parties that still exist today were formed in the pre-independence years around ethnic and religious communities, especially in Buganda, which had had a long history as an independent and well-organized kingdom and enjoyed a privileged status during the colonial time.

13. Uganda gained its independence in 1962, with Milton Obote as Prime Minister and with a partially-federal constitutional arrangement. The position of Buganda and three other kingdoms exacerbated and politicized conflicts between established ethnic, religious and linguistic communities. The initial constitutional guarantees were gradually abrogated, culminating in what was dubbed "the pigeon-hole constitution", distributed in 1966 to parliamentarians' pigeon-holes just as they were to adopt it. The slide towards the rule of force was hastened by increasing reliance on the army and in 1971 Idi Amin became President of Uganda after a military coup. He stayed in power till 1979 and was ousted through Tanzanian military intervention. Amin's rule made Uganda internationally notorious for killings, disappearances and torture. What brought the international spotlight upon Uganda, however, was not the atrocities committed against Ugandans but the mass expulsion of

Asians. Amin's justification for this expulsion was that the Ugandan economy was dominated by non-citizens and Asians were accused of sabotage and corruption. Uganda's Truth Commission noted two decades later that "the expulsion was on the whole popular amongst Ugandans". 1/ This mass expulsion provoked vehement foreign and international protest.

14. The United Nations response to human rights violations by Idi Amin's government came too late because of the change of government. Uganda's armed attack on Tanzania led to a Tanzanian counter-attack in March 1979, which ended Idi Amin's regime. On 28 September 1979, the new President of Uganda addressed the United Nations General Assembly and noted that "the United Nations looked on with embarrassed silence [while] at least half a million people were murdered in cold blood". 2/ A swift transition from one governing regime to another followed in 1979-1980, leading to elections in December 1980 which were endorsed internationally but challenged domestically. They brought Milton Obote back to power, but warfare continued till 1986. The response of the United Nations was again faulted retroactively: although ongoing abuses had been documented, advisory services were provided to Uganda during this period, including the training of prison and police officials at a time when the Government had withdrawn authorization for the International Committee of the Red Cross (ICRC) to visit detainees. 3/

15. Human rights work started in earnest in the 1980s, typically focusing on summary killings, disappearances, torture, ill-treatment of detainees, political rights and civil liberties. Parallel work on development has grown much more (both in quantity and quality), but conceptual linkages between human rights and development have yet to be forged. This is particularly visible with regard to the eradication of poverty, which needs a human rights underpinning, as well as concerning economic, social and cultural rights for which operationalization wavers between an unrealistic expectation that the Government will provide necessary services to all free of charge, and surrender in the face of the combined obstacles of poverty and debt servicing. The Special Rapporteur fully acknowledges the enormity of the challenge, as well as the absence of an international rights-based strategy for Uganda that would facilitate the conceptualization of economic, social and cultural rights. Promising developments at the international level include the rights-based country programming of UNICEF and the explicit incorporation by DFID of the human right to education in its aid policy.

16. Much debate in Uganda focuses on the movement versus a multiparty political system. Those who fear that political parties would replicate regional, ethnic and religious divisions invoke the experience of the decades when chaos prevailed, precluding the emergence of a shared vision of the country's future. Proponents of multipartyism point out that the emergence of such a shared vision necessitates the free articulation of different collective and individual interests, for which political parties are the normal channel and for which the full range of political rights should be guaranteed. The implications of different models of political organizing for economic governance provide a conceptual bridge for linking political with economic governance. The Special Rapporteur sees a great deal of potential for overcoming the inherited abyss between civil/political and economic/social/cultural rights in treating political rights as an instrument for attaining economic, social and cultural rights. While the previous

decades left a negative heritage, as is summarized below, the political and financial commitment to investment in education that led to UPE in 1997 promises to remedy the inherited dissociation between political and economic governance and open the way towards defining the right to education within Uganda's specific international and domestic environment.

B. Colonial and post-colonial education policies

17. The history of education is much longer than Uganda's statehood. Written histories tend to ignore indigenous education and begin with the first formally established non-indigenous schools, pointing out that these enrolled a couple of hundred children in 1898, broadening their coverage to 22,000 in 1903. 4/ Formal schooling was introduced by missionaries (the main religions were the Anglican and Catholic Churches and Islam) at the time when colonial Uganda was being formed into a future State. Although Islam preceded the introduction of Christianity in the late 1870s, Koranic schools were not immediately set up nor were they widespread. Anglican and Catholic mission schools also were unevenly spread between different regions. The mission schools introduced English as the language of instruction, whatever the pupils' mother tongue. The missionary tradition emphasized religion-based general education (religious conversion and instruction formed the core of the curriculum followed by secondary boarding schools) geared towards employment in the lowest ranks of the colonial administration. The colonial administration formally incorporated education in 1925 and the first annual report on education illustrates how it operated: "each teacher in charge of a bush school is supposed to visit the village around and seek to interest the people in the Christian message and call the children to school". 5/ Schooling was thus inextricably associated with Christianity.

18. Following independence in 1962, a series of attempts was made to secularize and indigenize education. The 1964 Education Act laid down the principle of non-denominational schools and the subsequent Act of 1970 asserted full control over schools. These precepts were not effectively implemented owing to the inability of consecutive governments to put their education strategies into practice. 6/ Education continued through a combination of religious schools and parental and/or community initiatives. Nevertheless, there was a trend towards centralized policy-making, funding and control until the process of decentralization started in the mid-1990s.

19. Secondary rather than primary education was prioritized in the 1960s, with boarding schools constituting more than two thirds of secondary schools. Primary education was shortened from eight to seven years. This trend was associated with the priority for turning out the highly-educated people necessary to govern and develop the country. The syllabus of the time did not include subjects such as agriculture (in a country where the bulk of the population depends on agriculture for their livelihood) and schooling continued in English (the mother tongue of an extremely small minority). The purpose of primary school remained preparation for secondary education, despite the fact that fewer than 1 in 10 of the children who made it to primary school actually continued on to secondary school.

20. A great deal of damage was done to the educational system as a whole, between 1971 and 1979 by the political repression that targeted teachers and

students, and by economic mismanagement. That schooling continued was due to parental and community efforts. Indigenization of the syllabus and of the teaching profession followed the massive exodus of expatriate teachers in 1971-1972. English was retained as a compulsory core subject and the Swahili and Luganda languages were introduced. Rehabilitation of schools after the end of Idi Amin's rule relied a great deal on parents and communities; consecutive governments only funded teachers' salaries.

21. A 1986 stocktaking found that Uganda's problems in education were - 23 years after independence - the same as at the time of independence. 7/ The Education Policy Review Commission was established in 1987, chaired by Professor William Senteza Kajubi, to carry out a comprehensive analysis and suggest a blueprint for the future. The Commission found that a great deal of change was necessary to remould schooling as it was not only "too academic and theoretically oriented", preparing children for largely non-existent white-collar jobs, but also too centralized and lacking a language policy. The report of the Commission 8/ was followed up by the 1992 white paper 9/ upon which the present education strategy is based. The combination of a devastated economy, desperate poverty and the pressure of debt servicing postponed the putting of these ideas into practice till 1997.

II. THE CONTEMPORARY INTERNATIONAL ECONOMIC ENVIRONMENT AND THE NEED FOR HUMAN RIGHTS IMPACT ASSESSMENT

22. International human rights law assumes that international cooperation promotes human rights, especially economic, social and cultural rights and the rights of the child. This pre-empts asking whether it can actually impede their realization. A great deal of critique targeting policies designed to facilitate debt repayment by countries such as Uganda at the expense of investment in human rights opened the way for analysing two potentially conflicting roles of aid: it can impede or facilitate recognition and realization of human rights. In the case of Uganda, considerable change has taken place recently, transforming debt relief, structural adjustment and aid from being hostile to human rights to being human rights friendly, especially with regard to investment in education.

23. Aid to Uganda constitutes 8 per cent of the country's GDP, making up the shortfall between the Government's revenue of 11 per cent and expenditure of 19 per cent of GDP. Although the Government's debt strategy discourages new loans, not all aid is in the form of grants and what is nominally labelled as "aid" services debt created by previous loans (also labelled as "aid"). The need for a human rights impact assessment originates in the interplay between Uganda's debt servicing and human rights obligations and the dual role of many donors who are at the same time also creditors.

A. Conflicting role of creditors and donors

24. The Government of Uganda has many times acknowledged its overdependence on external funding, which stems from the external debt burden combined with low revenue generation. The influence of the international creditor/donor community with regard to education cannot be overemphasized: Uganda's debt burden constrains options for allocation of available resources, pressurizes economic development towards exports and foreign investment, and makes

education dependent on donor support. Because the bulk of debt is owed to the international donor community (the World Bank/International Development Association (IDA) is the most important creditor), a vicious circle develops of paying back past debts so as to be able to raise additional donor/creditor funding, thereby incurring further debt. The Special Rapporteur finds it necessary to raise a simple but important question: are loans for primary education facilitating or undermining the Government's obligation concerning the provision of primary education free of charge? The increasing role of bilateral donors in education has shifted the composition of aid from loans towards grants, but the available funds do not match the agreed priority of making primary education universally available: "targets imply very high levels of funds, for which we are dependent upon donor support. With existing financial commitments, funding gaps currently remain such that the full targets will not be met". 10/

25. The price of debt servicing, translated into domestic budgetary allocations and export-promotion, was impoverishment. 11/ The fate of the rural majority still does not figure in the macro-economic statistics that are used to assess Uganda's capacity for servicing its debt. Public investment to provide schooling for this rural majority enters such statistics on the debit side. The conflict between the huge investment necessary to provide primary education for all children (which will yield some long-term economic benefit) and the attractiveness of recouping owed funds by nudging the Government into investments that will yield high short-term economic benefits is obvious.

26. The rationale underpinning international human rights law is priority for investment in human rights. Because such investment does not yield immediate and high rates of return, it was envisaged as an essential governmental function. Governments that were willing but unable to make such an investment were to be assisted through international cooperation. This rationale was turned around when a Government's inability to invest in human rights was reinforced by international debt-servicing policy inhibiting such investment. Conditions (routinely called "conditionalities") attached to macro-development strategy negotiated between the Government and the main actors representing creditors and donors precluded an effective recognition of human rights, specifically the right to education. The Special Rapporteur has been encouraged by changes in creditors' and donors' policy in 1997-1999, which opened the way towards universalizing primary education and thus created the possibility of effective recognition of the right to education.

27. Human rights require micro-level analysis - routinely excluded from the macro-development framework - which posits as its target the rights of each individual and prioritizes the rights of each child. Uganda's principal development objective has been defined as "sustaining high and broad-based economic growth in which the poor are able to participate". 12/ An implicit assumption is that investment in human rights is justifiable to the extent that it contributes to economic growth. Indeed, funds earmarked for improving the quality of life of the poor are classified as expenditures and are dependent on donor support. 13/ They appear as an "optional extra" rather than a key component of development. The linkage between literacy and economic growth is described thus by the World Bank:

"[T]he Government should seriously consider outreach programmes to attack illiteracy nationwide. This should be done without delay in order to equip Ugandans with basic literacy and numeracy skills to be better able to participate in and bring about the growth required for poverty reduction." 14/

28. The Special Rapporteur does not question the necessity of prioritizing economic growth in order to enable the Government to raise revenue necessary for investment in human rights. Nevertheless, she feels the need to point out that defining education solely as an instrument for poverty reduction and/or economic growth does not conform to the definition of the right to education in international human rights law. Investment in education therefore does not necessarily facilitate effective recognition of the right to education and so the impact of such investment ought to be carefully assessed.

B. Uganda's conflicting international obligations

29. Two conflicting types of international obligations - debt repayment and human rights obligations - have to be analysed in conjunction: the priority accorded to debt repayment can jeopardize investment in human rights. Both types of obligations are subsumed under international cooperation because a large proportion of debt is owed to multilateral agencies and individual donor Governments that alternate between the roles of creditor and donor. Where internally generated revenue is insufficient for both debt repayment and implementation of human rights obligations, as it is in Uganda, the priority accorded to debt repayment undermines investment in human rights. Moreover, during her visit to Uganda, the Special Rapporteur found a great imbalance between the high priority attached to debt servicing amongst international and domestic actors she talked to and the paucity of attention to Uganda's international human rights obligations, ranging from widespread uncertainty as to what Uganda's human rights obligations actually are and what they entail in the area of education, to poor compliance with reporting obligations under human rights treaties, or poor translation of international obligations into domestic human rights safeguards.

1. Debt repayment

30. The main actors in decision-making with regard to debt relief are creditor multilateral agencies (IMF, the World Bank/IDA) that do not consider themselves bound by international human rights law, and groupings of creditor countries (such as the Paris Club or G-7/G-8) that are not bound by international law at all. A great deal of effort has been devoted to arguing that such actors should be bound by international human rights law, but they are not. Assessing the human rights impact of their decisions is therefore a tool for bridging this gap.

31. The need for human rights impact assessment stems from the fact that the macro-development framework (economic, monetary and fiscal) is defined through extra-legal procedures and is exempt from legal challenge, yet it determines the capacity of the Government to allocate resources according to its human rights obligations. The discrepancy between economic governance and human rights obligations is transposed from global to domestic decision-making

through the conditionalities attached to funding necessary for debt repayment, as well as determining eligibility for international and external funding necessary for investment in education.

32. Uganda first introduced its Economic Recovery Programme in May 1987 and has been implementing it for the past 12 years. It has been assessed as "ambitious and successful" by the criteria of high growth, low inflation, improved balance of payments and a strengthened private sector. 15/ Debt servicing was authoritatively assessed as impossible and in 1998 Uganda was the first highly-indebted poor country to receive debt relief. The decision was made in April 1997, but Uganda had to wait another year for implementation. The total nominal debt service relief agreed was $650 million. Uganda's debt is owed mostly to multilateral agencies and so $73 million was set for bilateral and $273 million for multilateral creditors (of which $160 million for the World Bank and $69 million for IMF). 16/

33. This debt relief has not been assessed as generous. The stringent conditions for eligibility were aggravated by the debt servicing to export ratio. The linkage of debt relief to exports shifts attention away from the impact of debt servicing on budgetary allocations. In 1998/1999, $175 million destined for debt servicing was reduced to $132 million, with $43 million in debt relief. Funds released through debt relief were transferred to poverty eradication, including primary education, trebling the central Government's transfers, earmarked for primary education, to the districts. The additional funding boosts that would become possible with further debt relief can easily be envisaged and it is regrettable that investment in essential services, such as education, needed to create a basis for the recognition of education as a human right, does not figure prominently in decision-making on debt relief.

34. The Special Rapporteur deems it important to emphasize that in the case of Uganda consecutive decisions on debt relief diminished its negative impact on human rights. She has been gladdened by the public attention in Western Europe which accompanied further promises of debt relief in June 1999 and will continue to follow developments concerning Uganda. Her numerous conversations in Uganda revealed, however, that - unlike debt repayment and/or structural adjustment - human rights obligations are not perceived as binding nor is meeting them facilitated by benchmarks and performance indicators.

2. Human rights obligations

35. The conflict between Uganda's debt repayment and human rights obligations is clear with regard to resource allocation. The two types of obligation pull in opposite directions - debt repayment towards diminishing governmental allocations for education and human rights obligations towards increasing such allocations. Although the growing influence of bilateral donors and conditionalities attached to their aid for education have increased the Government's budgetary allocation for primary education, this influence has not encompassed facilitating a translation of Uganda's human rights obligations - including those concerning primary education - into recognized and enforceable rights.

36. Uganda has ratified all the human rights treaties which include specific guarantees of the right to education. 17/ None of these can be directly

invoked by their potential beneficiaries and only for two treaties have reports been submitted by the Government. These two reports - on women's rights and the rights of the child - marked the beginning of a dialogue about the translation of international obligations into domestic human rights guarantees. The Committee on the Elimination of Discrimination against Women reviewed Uganda's first report in 1995 and "noted with concern the effects of structural adjustment programmes on women and children". The Committee noted as additional issues of concern the high percentage of households headed by girls and the sexual abuse of schoolchildren by their teachers and other adults. 18/ For its part, the Committee of the Rights of the Child expressed its concern about children not being registered at birth in many rural areas and at insufficient access to education; it emphasized "the low level of school enrolment and high drop-out rates for girls due to, inter alia, early marriage, the lack of learning and teaching facilities and materials, and the shortage of trained teachers". 19/

37. The Special Rapporteur was happy to learn that Uganda's second periodic report under the Convention on the Elimination of All Forms of Discrimination against Women is being finalized for submission. She was extremely concerned to find that there were no plans for the submission of the many overdue reports under other human rights treaties. The issue of the lack of reporting by Uganda has been raised by all the relevant human rights treaty bodies over the past two decades. There has been no change in the Government's performance thus far. The Uganda Human Rights Commission, mandated to monitor the Government's compliance with its international obligations, suggested that the government organ responsible for reporting "be clearly identified and officially demanded to fulfil its mandate". 20/ The Special Rapporteur endorses this suggestion and hopes that international human rights obligations will gradually come to be perceived as legally binding in practice and not merely in theory.

38. A great deal of human rights assistance that is being provided to Uganda does not follow the same strategy as in the field of primary education and appears to be dispersed amongst many different actors and projects. Since human rights is a cross-cutting issue, there is no obvious lead ministry nor is a single donor agency coordinating aid in this area. The Special Rapporteur is concerned about the manner in which human rights assistance is being provided. This was illustrated by the number of times she had to explain that she was not representing any donor nor starting any new project, which is obviously a broadly shared perception amongst both governmental and non-governmental actors as soon as "human rights" is mentioned in conjunction with "education".

III. DOMESTIC FRAMEWORK

39. The Special Rapporteur found that a great deal of uncertainty characterizes economic, social and cultural rights. On the one hand, they are identified with the Government's delivery of services and thus with meeting human needs, rather than with recognizing and protecting individual rights and freedoms. On the other hand, their recognition is deemed necessarily delayed till economic growth makes self-provisioning feasible.

40. The specific nature of social and economic rights requires their promotion through economic and fiscal policies, as well as through their legal recognition. Primary education has been granted an increased budgetary allocation in the period 1997-1999 and, in addition, has received considerable donor funding. The right to education is recognized in the Constitution but not in legislation and the UPE programme has no legislative underpinning. The Special Rapporteur's many questions concerning the sustainability of primary education subsequent to the end of donor funding and its fate in the budgetary allocation after the creditors' and/or donors' conditionality ends remained unanswered. The general hope that economic growth (to which education should contribute) would yield sufficient revenue for the Government to enable it to replace donor support may not be realized in the short term. The first UPE generation will finish school in the year 2003 and these 13-year-olds neither can nor should be expected to make a dent in poverty or to foster economic growth. The experience of many countries shows that increased demand for secondary education will be a certain outcome of the success of UPE thus generating further pressure for budgetary and donor allocations to education.

41. The Special Rapporteur feels that the recognition of the right to education constitutes the first necessary step towards defining the rights of the child and the corresponding obligations of the Government and parents necessary to sustain the successful increase in access to primary education through UPE. The African tradition of specifying individual duties and responsibilities (especially those relating to taxation, necessary to enable the Government to raise revenue) facilitates the designing of a legislative framework for the right to education.

A. Constitutional guarantees

42. Uganda underwent a pioneering exercise in constitution-making in the period 1988-1995. It started with the Constitutional Commission, which solicited views on what constitutional arrangements and guarantees there should be through a lengthy but inconclusive process. More than 700 seminars were held throughout the country and more than 20,000 written contributions were received. This consultative process led to a draft constitution in 1992, and was followed by elections to the Constituent Assembly and the finalization and adoption of the Constitution in 1995. The emphasis on the rights of women, children and people with disabilities in the Constitution was interpreted as an outcome of such a broad-based process of constitution-making.

43. The 1995 Constitution posited education as a right, specifying that each child is entitled to basic education, which is a shared responsibility of the State and the child's parents. The 1996 Children's Statute went further in defining the parental responsibility to maintain children, adding that this parental duty gave the child the right to education. These provisions have not been operationalized through subsequent legislation nor have they been reflected in the educational strategy, however.

44. Constitutional provisions relating to gender were far-reaching and have been subsequently reinforced through extra-legal measures. Uganda's Constitution affirmed women's right to affirmative action, which has been translated into practice in their political representation or access to

university. The National Resistance Movement (NRM) started affirmative action in 1987 by ensuring that at least one woman was a member of the then Resistance Councils, from the local level upwards, and the practice of reserved seats for women has continued. This practice has given women a political voice and made possible its gradual translation into women's equal rights to resources, especially land. The Special Rapporteur deems this issue to be crucial for motivating parents to educate their daughters because, for the bulk of Uganda's population, land is the key to survival and land ownership is the key to participation in decision-making from the family onwards.

45. Following the results of the 1991 census, analyses of people working in agriculture revealed that 70 per cent of men (and 27 per cent of women) were recorded as self-employed, while 73 per cent of women (and 30 per cent of men) were recorded as unpaid family workers. 21/ Women's ability to be recorded as self-employed depends on their ownership of land, where women still constitute a statistical minority under statutory law and are right-less under customary law. These bleak prospects for women's self-employment undermine incentives for their schooling. At the time of the Special Rapporteur's visit to Uganda, a great deal of attention was focused on the land reform legislation and on the uncertainty of prospects for women's land ownership which this process revealed. Co-ownership by spouses was proposed in the form of an amendment, which according to some interviewees had not been duly tabled and was thus absent from the adopted law. The Special Rapporteur was delighted to note the attention paid to the effects of land law on women, which vividly demonstrated how the exercise of political rights leads to demands for economic rights.

B. Education strategy

46. One striking feature of Uganda's educational policy is the non-use of human rights language, which illustrates the abyss between human rights and education. The Education Strategic Investment Plan 1998-2003 commits the Government to assuring universal access to primary education as the highest priority, points to the removal of financial impediments and pays particular attention to gender and regional equality. Putting the Plan into practice is envisaged through shared contributions by the public and private sector, by the household and the community. It confirms that "communities will retain responsibility for the expansion of primary classrooms". 22/ With the expansion of enrolments within UPE, the ability of poor rural communities to provide classrooms and to recruit and retain schoolteachers has placed an additional strain upon the fragile fabric of self-provisioning.

C. Budgetary allocations

47. The Education Policy Review Commission recommended that 20 per cent of the Government's budget be earmarked for education. This target was surpassed by the allocation of 33 per cent of the discretionary recurrent budget, out of which 62 per cent was devoted to primary education. 23/ Almost half of these funds went on teachers' salaries, with the building of classrooms and the purchase of textbooks being the other major items of expenditure. The UPE development budget was originally planned to increase from $60 million in 1997 to $125 million in 2002, the bulk of which (90 per cent) was expected to be funded by donors. These estimates proved to be much too modest and

projections of the funding needed to universalize primary education skyrocketed. Donor commitments increased (the United Kingdom committed £67 million and the World Bank $115 million), the Government's budgetary allocations even more.

48. Discussions about nominal budgetary allocations were inevitably accompanied by a switch of topic to corruption in the conversations which the Special Rapporteur had with diverse actors. A great deal of attention has been devoted to exposing and opposing corruption because it prevents apparent macro-level benefits from filtering down to the intended beneficiaries. Emanual Ablo and Ritva Reinikka carried out a much quoted study into the fate of budgetary allocations on their way from the central Government's budget to individual schools, teachers and children. Their findings challenged the officially recorded numbers of schoolchildren, showing that enrolment in the period 1991-1995 increased by 60 per cent rather than being stagnant as the official statistics would have it, while less than 30 per cent of public spending nominally allocated for education reached schools. 24/

D. Decentralization

49. Uganda has implemented a threefold process of decentralization: (i) political decentralization was initiated through the establishment of Resistance Councils during the war and broadened throughout the country as of 1986; (ii) administrative decentralization was introduced in 1993 with the aim of setting up local administration accountable downwards to the local population rather than upwards to the central Government; (iii) financial decentralization followed through unconditional and conditional block grants from central to local government and the introduction of locally decided budgets.

50. The process of decentralization increased the role of district authorities in the educational system, especially in primary schooling. Districts are expected to assume full responsibility "for the delivery of all primary and secondary educational services" 25/ and are recruiting teachers, while the Ministry of Education pays their salaries. Decentralization is envisaged to develop into devolution with regard to primary schooling. The head teacher, the management committee and parent-teacher associations (PTAs) are expected to run schools. During the time when a great deal of funding was secured through PTAs, their involvement in the running of schools was considerable and their role changed with increased funding from the central Government. A switch from parental involvement to defining schooling as community service (thus potentially involving both parents and non-parents) has not yet yielded discernable outcomes because it is a recent initiative. The Special Rapporteur will continue following with great interest the effects of decentralization on primary schooling.

IV. HUMAN RIGHTS OBLIGATIONS CORRESPONDING TO THE RIGHT TO EDUCATION

51. In her preliminary report (E/CN.4/1999/49) the Special Rapporteur developed a 4-A scheme (availability, accessibility, acceptability and adaptability) to analyse governmental obligations corollary to the right to education. It is applied here to Uganda.

A. Availability: schools and teachers

52. Primary education has immense importance because it is the only type of education to which most Ugandans can ever have access: secondary and university education are beyond the reach of the majority.

53. The challenge of making schooling available for all Ugandan children can be succinctly portrayed by outlining its major determinants: half of Uganda's population is younger than 15 and for each child there is only one adult statistically classified as pertaining to the labour force (15-64), thus making the dependency ratio 1:1. The estimated number of primary-school children is 6.5 million; the labour force is estimated at 8 million. The corollary financial obstacles are compounded by the legacy of widespread illiteracy, a ruined educational system and unpayable foreign debt bestowed upon the current generation by the previous decades. They are further compounded by the fact that Uganda is one of the least urbanized countries in Africa and providing schooling for a dispersed rural population is no easy task. Moreover, the fertility rate remains very high (Uganda's population is estimated to have grown from 16 million at the time of the 1991 census to 21 million in 1999), further increasing the youthfulness of the population, the consequent demand for schooling and the low generation of the revenue necessary to finance it.

54. Under the UPE programme, the officially reported enrolment in primary school trebled, 26/ making additional classrooms and teachers an urgent priority.

55. The huge increase in the number of learners has not yet been accompanied by the provision of an adequate number of schools and classrooms. The Uganda Bureau of Statistics reported 10,940 schools existing in 1997, 60 per cent of which were classified as "non-permanent", 40 per cent without safe water and 48 per cent without sanitation. The 1998 minimum conditions are used as guidelines for the building of new schools, not as yardsticks to eliminate the use of classrooms and/or schools that do not comply with these minimum criteria. The Special Rapporteur was told that schooling can still take place underneath a tree, while many children have not even seen separate toilets for girls and boys. Building and refurbishing schools to meet the requirements of the large number of learners with the limited funds available remains a huge challenge.

56. Primary schoolteachers have the status of civil servants (the official term is "public service" rather than "civil service" in Uganda) but have been exempt from the reductions affecting the public service. The number of primary-schoolteachers was officially recorded as 82,745 in 1995 27/ and increased significantly following the trebling of enrolment under the UPE programme. The Special Rapporteur could not verify the number of teachers in 1999 because the process of registering teachers on the payroll has not been completed, but the ceiling for their recruitment is apparently set at 94,300 under the public service hiring freeze. Teachers' monthly salaries were increased fivefold, from $8 to $72, between 1992 and 1997 and to $80 in 1998. Teachers' salaries were apparently the same whether they worked in the capital or in remote areas and were based on the public service classification rather

than the teacher's individual performance. The size of the effort that teachers are required to make is well illustrated by the ratio of 6 million learners to less than 100,000 teachers. The teacher-pupil ratio is set at 1:110, but in the final, seventh year of primary school the ratio tends to be 1:20, while for the first year it can reportedly reach 1:300. Various forms of multi-shift and multi-grade teaching are being experimented with to facilitate coping with such a huge number of learners.

57. The Special Rapporteur was often told that half of teachers are untrained. The National Commission for UNESCO was blunt in a self-assessment: "About 65 per cent of the teachers in [primary] schools are untrained and/or undertrained". 28/ The surge of children in the period 1997-1999 is likely to have worsened the situation and it is not yet known how much improvement has been achieved through the many ongoing teacher training projects.

58. As part of the public service, teachers were granted trade union freedoms as of 1993. Many strikes (formal and informal) took place, mainly because of delayed payment of teachers' salaries. School principals are prohibited from exercising the right to strike because they are defined as performing an essential service. The Special Rapporteur's efforts to discern how teachers' collective interests are represented and how the teachers' voice is heard in the many ongoing discussions about UPE yielded a complicated story going back to the initial attempts at forming trade unions in the 1960s and the opposition to them embodied in equating trade unions with strikes. The Teachers' Association survived as an actor recognized and supported by changing governments, and underwent various challenges to its leadership. As far as the Special Rapporteur could ascertain, the teachers' collective voice is lacking in policy-making, whether this relates to changes in the primary school syllabus (one proposal was to increase the number of subjects from 4 to 11) or the policy of inclusive education (integration of children with disabilities and the training of all teachers in coping with diverse-ability classes) or corporal punishment.

B. Accessibility: excluded and unreached children

59. Precise information on the children who should be but are not in school is lacking, one of the crucial obstacles being the absence of registration of children at birth. In its report to the Committee on the Rights of the Child, the Government acknowledges that "this practice and requirement has been lax". 29/ There is an annual headcount of children in school but estimates of the numbers of those outside vary a great deal. Moreover, the absence of birth registration makes for reliance on guesswork in determining children's ages.

60. School fees were abolished in January 1997 and enrolment increased from about 2.5 million in 1996, to about 5.5 million in 1998 and to about 6.5 million in April 1999. Different sources of educational statistics posit different figures, but these estimates highlight sufficiently the growth of enrolment, without it being necessary to assess figures that may or may not be accurate. The Special Rapporteur's rationale is simple: before 1997, schools had to remit fees according to the number of enrolled children and the incentives to under-report their number were many, for example allowing children to attend school without paying fees. Subsequent to the abolition of

this requirement, there is an incentive to over-report enrolments because schools receive capitation grants according to this reported enrolment. Ongoing efforts to obtain comprehensive, accurate and verifiable educational statistics are expected to yield results in the near future.

61. The cost of education had been the main obstacle to children's attending school. Families were bearing two thirds of the cost of primary education, and schooling the average seven children born to each woman was beyond the reach of most.

62. Making primary education all-encompassing and compulsory is planned for the year 2003. The priorities are enrolment of unreached children, retention of those who are enrolled and preparation for the expected surge in demand for secondary education following the trebling of the number of primary-school children. 30/

1. Affirmative action for girls and young women

63. The ratio of girls to boys in primary school increased by an annual 1 per cent between 1995 and 1998 (from 45 per cent to 47 per cent) but this average hides a great deal of variation within the country and among primary schools. Equalization of the number of girls and boys at the entry point seems close to being achieved and attention is shifting to the retention of girls, especially after the fourth grade (P-4 in Uganda) when many girls tend to drop out. The Special Rapporteur was told that in a typical class of 20 in the final, seventh year of rural primary school, there can be 17 boys and only 3 girls. Moreover, illiteracy is widespread among adult women, also in rural areas, but attracts little political or funding priority.

64. Women's status in the family is coloured by the fact that 30 per cent of marriages are polygamous. 31/ No official statistics are being collected to document the extent of polygamy, while the Second Wives and Concubines Association of Uganda was the first effort to make this phenomenon visible. The erroneous image of the marriage as necessarily monogamous has two direct consequences for children's education. Firstly, the number of children per household is determined by the number of wives and easily multiplies the four who are exempt from primary school fees. Secondly, the payment of school fees is traditionally the father's duty; this determines the criteria for selecting those children who will go to school.

65. Gross enrolment in the period 1993-1995 was 79 per cent for boys and 67 per cent for girls; net enrolment was estimated at 58 per cent for boys and 51 per cent for girls, and school attendance at 65 per cent for boys and 63 per cent for girls. 32/ Fees were abolished for four children per family, with the additional requirement that two be girls. In response to the Special Rapporteur's concern about access to school for children who were not among the chosen four, she was provided with a great deal of anecdotal evidence of the imaginative ways in which this obstacle was being overcome. She was told that four-children-per-family was interpreted as four-children-per-woman thus allowing the enrolment of children born to second and subsequent wives. The fact that many polygamous marriages are not registered made it easy for mothers to be portrayed as single parents. Unverifiable estimates placed the number of fee-paying children at between 10 and 15 per cent. The coverage of

additional children by UPE seems to be tolerated, while the four-per-family rule is not altered, so that it will represent a subliminal message about the desirability of smaller families.

66. The Government has also adopted a policy of preferential treatment in tertiary education, which promises to result in a larger pool of women for the professions and for positions requiring university education. An increase of girls attending university was achieved by weighting of their secondary school leaving examination scores by 1.5. What became known as the "1.5 bonus" was introduced in 1990 and increased female university enrolment from 22 per cent in 1989-1990 to 35 per cent in 1990-1991. One criticism has been that this has benefited girls from the most prestigious schools in and around Kampala. 33/

2. Inclusion of children with disabilities

67. The Special Rapporteur was happy to learn that a shift of approach to education for children with disabilities had taken place and the previous emphasis on special schools and/or education was being replaced by a commitment to inclusive schooling.

68. Statistics concerning schooling for children with disabilities used to be mutually contradictory. According to one source, in the early 1990s only "348 blind, 227 deaf and 299 mentally handicapped children" were in school. 34/ According to another, there were "55 special schools, 24 annexes for the handicapped and 2 schools for the deaf". 35/ Such special schools will continue for children with severe disabilities, while the inclusive approach aims to integrate as many others as possible in ordinary schools.

69. The 1996 Children's Statute provides for equal opportunities to education for children with disabilities. (The rule of thumb applied by the Ministry of Education is to assume that 10 per cent of children have some form of disability.) This was a follow-up to the 1995 Constitution and to the success of representatives of people with disabilities (unified under the umbrella organization, the National Union of Disabled Persons in Uganda (NUDIPU)) in raising their visibility and placing their problems on the human rights agenda. Special programmes for children with disabilities were initiated, without a corollary effort to introduce into educational curricula for non-disabled children contents that would tackle and strive to eliminate the inherited stigmatization of disability. The planned inclusive schooling and teacher training aimed at their adaptation to diverse-ability learners will hopefully contribute to reducing such stigmatization.

3. Children affected by armed conflicts

70. Children have been victims of armed conflicts throughout Uganda's turbulent history, but the armed conflict in northern Uganda, which has been festering for years, seems to have been particularly child-targeting. Abuses have been reported on both sides, the Lord's Resistance Army (LRA) and the Ugandan army. In 1996 the Working Group on Disappearances forwarded to the Government 41 cases of abductions of schoolchildren by the LRA 36/ and in 1998 the Commission on Human Rights adopted its second resolution on the abduction of children from northern Uganda. The Special Representative of the

Secretary-General on the impact of armed conflict on children serves as focal point for the coordination of efforts to obtain the release of children abducted by armed groups in northern Uganda. 37/ One outcome of this situation has been extremely low school enrolment, reported to be 18 per cent in 1997 and lower than 19.6 per cent in 1996. 38/

71. Schools and schoolchildren have also been the target of attacks in the south-western part of Uganda (Rwenzori mountains), where the abduction and killing of schoolchildren have been widespread. Preventing such abuses has thus far proved impossible and a great deal of public attention has focused on them. The Government's implicit rationale has been that its response to such horrors, no matter how harsh, should be judged as a lesser evil.

4. Children deprived of their liberty

72. Children who are deprived of their liberty are unable to have access to schooling unless it is provided in their places of detention. This has proved impossible because of low budgets for the administration of prisons and juvenile detention facilities which are inadequate for large and constantly increasing populations of detainees. It is precisely for people who are in the custody of the State - particularly children - that specific human rights guarantees have been elaborated in great detail to overcome the impossibility of securing budgetary allocations for them through the political process.

73. Education for children in approved schools and reformatories has not been positively assessed by the Government itself: "dilapidated structures as a result of the many years of turmoil and neglect; lack of equipment and qualified personnel to effect [the] training programme; inadequate recreation and play facilities; and poor feeding and sleeping conditions". 39/ Education was conspicuously absent from this assessment. As far as the Special Rapporteur could ascertain, no schooling is provided and children can be confined to their overcrowded dormitories or spend the entire day working. Work consists of manual labour which is poorly rewarded (the lowest reported payment is U Sh 1 per day, equivalent to $0.001).

5. Working children

74. As in other poor countries, most people - including children - work because they simply cannot afford not to. Most children work in the informal sector and their numbers, ages or conditions of work are not known. It is well known, however, that the phenomenon is widespread. Working children's access to school has not been guaranteed by the mere abolition of school fees; schooling remains expensive because of other direct costs (such as uniforms) and the opportunity cost resulting from competing claims of schooling and working. Many children work simply to be able to eat and getting them to school will necessitate not only eliminating all direct costs but also providing them with food.

75. The Special Rapporteur learned with pleasure that in November 1998 the Government signed the Memorandum of Understanding with the ILO Programme for the Elimination of Child Labour (IPEC), which was accompanied by a

$1.5 million grant, and she will follow its implementation closely. She feels that this initiative fits in well with the Government's plans to vocationalize primary education.

C. Acceptability: content and methods of schooling

76. The Special Rapporteur noted that most debates about education in Uganda revolve around necessary - but unavailable - funding. This focus is justifiable in education but many issues concerning human rights in education are not resource dependent. The content of educational curricula and textbooks does not have any effect on the cost, and resorting to corporal punishment to enforce school discipline does not have any correlation with wealth or poverty. Mother-tongue education does generate additional costs in terms of instructional materials but saves the cost of repetition because it facilitates learning.

1. Educational curriculum and textbooks

77. The primary school curriculum consists of four core subjects: English, Mathematics, Science (which includes health) and Social Studies (which combines History, Geography, Religion and Civics). These four subjects are examined in the Primary Leaving Examination (PLE) in English. The annual grading of pupils is done under the auspices of the Uganda National Examinations Board (UNEB).

78. Schools have been given freedom of choice among textbooks approved by the National Textbook Vetting Committee. USAID has supported a reform of textbook procurement, leading to contracts with an initial 8 and subsequently 10 publishers, amongst whose offers individual schools have a choice. The Government is subsidizing the cost of textbooks by transferring funds to individual schools that translate to a ratio of seven (or six) pupils per book. How a child can learn to read and write (in English, which is not the mother tongue of most pupils) sharing a single textbook with five or six other pupils is a question to which the Special Rapporteur did not obtain an answer.

79. To find out what the cost of textbooks is for those parents who wish to supply their child with his or her own set of books, the Special Rapporteur purchased two sets (one by an international and the other by a Ugandan publisher) and discovered that textbooks are prohibitively expensive. The minimum cost of a set of textbooks for the four core subjects is $20 (compared to, for example, a teacher's monthly salary of $80) and with the cost of additional books, notebooks, pens and pencils, and the school uniform easily amounts to one monthly salary per child.

80. Besides their cost, the content of textbooks raises many questions. The Ministry of Gender and Community Development (as it was then) noted in 1995 that schools socialized "girls into their subordinate roles in society. In this, the schools provide a faithful reflection of women's subordination within the home". 40/ School textbooks have reportedly been reviewed to cleanse them of a prejudicial portrayal of girls and women. The Special Rapporteur found, nevertheless many examples of such portrayal, which can be illustrated by this passage from the Social Studies textbook for P-5

(10-year-olds): "Both the Baganda and the Banyoro think that marriage is very important. Women who are not married are not well respected among them. Each man traditionally had more than one wife. He could have as many wives as he wanted. A man with many wives was respected by other members of the tribe." 41/ Following this passage, children are informed that girls must kneel (boys can stand) when greeting elders. In a final comment, they are told that such traditional customs are disappearing because of "modern Western customs".

81. The Special Rapporteur is also concerned about the portrayal of Uganda's racial, ethnic, religious and linguistic diversity in textbooks. The revival of traditional kingdoms (Buganda, Toro and Bunyoro) in 1993 opened the way for the recognition of cultural diversity, which had been artificially abolished in 1967. These are well portrayed in children's textbooks. There is no recognized minority or indigenous status for any community (those often mentioned are Karamojong, Banyarwanda, and Batwa). Nomadic communities (especially the Karamojong in the north-east) are routinely the subject of criticism in the mass media for their backwardness and often blamed for constituting an obstacle to development. They are largely absent from textbooks. The expulsion of Asian Ugandans in 1972 reduced the Asian community in the country from 76,000 in 1970 to 430 in 1980. 42/ It was made legally possible in 1982 for them to reclaim their property and this was put into practice in 1992-1993, under considerable donor pressure. There is no indication that they were welcomed back, nor is there any evidence that this multiracial country is addressing the multilayered problems of its diversity.

2. Languages of instruction

82. The heritage of missionary schooling in English, strengthened by governmental policies in the first decade of independence, was addressed through the proposed introduction of trilingualism - the mother tongue, English and Kiswahili. The mother tongue should be used as the medium of instruction in the first years of primary school, but there do not seem to be any textbooks available. A survey in 1995 found that 60 per cent of children spoke a different language at home from the language of instruction in school. 43/ Kiswahili and English should be taught as subjects during the first four years, but few textbooks are available in Kiswahili. The language of instruction shifts to English in the fifth grade, with the mother tongue and Kiswahili taught as subjects.

3. School discipline

(a) Corporal punishment

83. Joe Oloka-Onyango noted that corporal punishment is brought to light only when a child is severely injured, pointing out "the absence of a monitoring system to ensure that such abuse of power by teachers does not take place". 44/ Besides this absence of monitoring, teachers form part of the public service and there are no grounds for their dismissal for abuse of power over their pupils. Perhaps the transfer of authority for teachers' recruitment from the central to district authorities will increase the involvement of the community, although this may not prevent corporal punishment because many parents remain supportive of it. Corporal punishment

is widely used and Catherine Watson cited research done at the Mulago Child Health Development Centre which showed that mothers were the principal enforcers of corporal punishment and between 55 per cent and 82 per cent of them reported caning, slapping or beating their children. 45/ Corporal punishment was legalized by the Education Act, which attempted to confine the administration of corporal punishment to head teachers, but it is acknowledged that "teachers do cane children in all the schools". 46/ The Ministry of Education issued a circular instructing teachers not to resort to corporal punishment, while individual cases started prompting the law enforcement agencies and the Uganda Human Rights Commission to react. Cases resulting in severe injury have been prosecuted and have often resulted in the payment of the cost of medical treatment for the child and compensation to the parents.

84. The Special Rapporteur is concerned about the effects of exposure of Ugandan children to violence, whether it is manifested in corporal punishment in the family and in school, or in abuse of children in armed conflicts. The missionary tradition of schooling which combines obedience and strict enforcement of school discipline socializes children into following orders and physical punishment for disobeying them, whether such orders are understood or not. The Special Rapporteur heard a great deal of opposition to changing methods of enforcing school discipline and noted the paucity of counter-arguments which would associate early exposure of children to obedience and violence with their adult behaviour. She very much hopes for an initiative to rupture inter-generational transmission of such a "culture of violence".

(b) Pregnant schoolgirls

85. While corporal punishment has elicited some public attention, pregnant schoolgirls still have to leave school and are unable to register at the same school after delivery. No information is available on this issue nor is it on the educational, gender or human rights agenda. The Special Rapporteur was given the well-known explanation about the background to this practice, going back to the heritage of missionary schools. Justifications for this practice included assertions that any form of tolerance of child pregnancy would be seen as encouragement. No association is made with the best interests of the (pregnant) child nor is there an acknowledgment of the fact that girls have not been equipped with the knowledge and skills necessary to prevent pregnancy and are thus doubly victimized. The Special Rapporteur is concerned about the lack of attention to this issue, especially in view of Uganda's initiative to speed up the entry into force of the Charter on the Rights and Welfare of the African Child, which contains an explicit provision obliging Governments to enable child mothers to continue their education.

86. The introduction of family life education in school was prompted by the HIV/AIDS pandemic, but access to contraceptives did not follow (contraceptive use is still estimated at below 10 per cent), nor did a family planning programme that would inform and empower girls and women to protect themselves from unwanted pregnancy or HIV infection. Uganda's success in halting the spread of HIV infection (HIV infection rates have been falling since 1995) has been much praised and rightly so. This success was based on a widespread information and education campaign, which necessarily included some sexuality-related content.

87. The Special Rapporteur is fully aware of the difficulties involved in reconciling freedom of religion with the best interests of the child, when these require providing the child with means of self-protection against HIV infection or pregnancy. She is not arguing that this is easy, but rather that it is both possible and necessary. Similarly, the removal of pregnant girls from school reinforces the image of these girls as unworthy of further schooling and also removes them from the public eye, making it easy to avoid tackling the causes of child pregnancy.

D. Adaptability: orientation and purpose of education

88. Basic education was defined in the 1992 white paper as the "provision of opportunities for acquiring the minimum package of knowledge, skills and attitudes that will enable one to realize one's potential and to contribute constructively to local and national development". A Curriculum Review Task Force was appointed in 1992 to formulate a syllabus that would reflect the contemporary national and educational objectives. The Task Force recommended science and basic technology as cardinal areas of study and an emphasis on vocational skills, as well as development of an understanding of one's rights, civic responsibilities and duties, including those related to responsible parenthood. 47/ Revision of the syllabus continued, with the intention of introducing new subjects, such as Agriculture or Business and Entrepreneurship Education so as to vocationalize primary schooling and make it useful for learners - a vast majority - who will have no subsequent schooling. A proposal was made that the number of subjects be increased to 11. It was unlikely to be accepted because of the increased demands it would place upon teachers and the prohibitive cost entailed in purchasing textbooks.

89. A comprehensive strategy for education is expected to be drawn up following the current focus on UPE. This is necessary before the first UPE generation leaves primary school in 2003 and it becomes obvious that 13-year-old children may not be equipped to earn their livelihood, even if they were legally allowed to start working at this early age. However, they may not be able to continue their education owing to the shortage or excessive cost of secondary education. The planned vocationalization of primary education thus needs broadening as a follow-up to primary schooling. The Special Rapporteur was discouraged by information about the lack of domestic resources or donor interest in vocational education and training.

V. CONCLUSIONS AND RECOMMENDATIONS

90. The conceptual bridge to link education, gender and human rights is yet to be built. A great deal has been achieved for gender, much less to define and operationalize the right to education and human rights in education. The Special Rapporteur is concerned about the widespread perception of universal primary education as a gift and the absence of legislative underpinning that would specify rights and duties, freedoms and obligations in education. She recommends that the immense improvement in access to school resulting from UPE be used as an opportunity to ensure sustainability of primary education through an all-encompassing public debate about a self-sustaining educational system that would lead to its legal entrenchment.

91. Making primary education universal by the year 2003 requires a coordinated effort by the international creditor and/or donor community and the Government. The Special Rapporteur was happy to learn about further possibilities for debt relief opened by the G-8 meeting in June 1999 and the broadening international support for converting funds freed by debt relief into improved availability and accessibility of schooling for Uganda's children and youth. She recommends that human rights impact assessment be institutionalized to identify international factors inhibiting or facilitating access to school and thus clarify the impact of international debt relief and structural adjustment policies. The creditors' and/or donors' support to education gives countenance to the timeliness of such an initiative.

92. Mainstreaming human rights and gender in education necessitates the recognition of all relevant human rights issues. Thus far the focus has been on availability and accessibility of primary schooling. The Special Rapporteur has been gladdened to see how much attention is being devoted to improving girls' access to school, their consistent attendance and completion. She suggests that this momentum be used as the basis for gender mainstreaming. This requires addressing difficult and controversial issues such as schoolgirl pregnancy, adaptation of the content of educational curricula and textbooks to the objective of equipping girls with the knowledge and skills necessary for them to avoid early pregnancy, and broadening the objectives and purposes of education to provide the future generations of women in Uganda with options unavailable to the past and current generations of women. The Special Rapporteur recommends that an effort be made to overcome the fragmented attention to gender, specifically in view of the importance of women's land ownership for the status of girls and women throughout rural Uganda. The interrelatedness of human rights provides a comprehensive framework for reviewing all sectoral policies so as to adjust them to human rights requirements. The mutually reinforcing gender commitments of the Government and the international donor community provide an excellent basis for embarking on this process.

93. The Special Rapporteur is concerned about the absence of attention to many important human rights issues in the sector of education. She noted that the collective voice of teachers is not heard in many professional and public debates about education, and that the trade union freedoms of primary schoolteachers remain constrained by the developments of the past decades. The increased duties and responsibilities of teachers have not been matched with recognition of their trade union freedoms. The vast growth of primary school enrolment and additional expectations upon teachers stem from the explicit recognition of the need to adapt teaching to girls as well as boys, to learners with disabilities as well as able-bodied children, and to the multilingual environment. The Special Rapporteur recommends that particular attention be paid to the full recognition of teachers' trade union freedoms and that the collective voice of teachers be solicited throughout the process of educational planning and policy-making and their translation into reality.

94. Existing international human rights law provides guidance for addressing all human rights issues in education. The Government has ratified most relevant human rights treaties with the exception of crucial ILO conventions, but its compliance with its reporting obligations leaves much to be desired.

Neither the contents of human rights treaties as they apply to education, nor the reporting obligations are known to many relevant actors - either international or Ugandan - working in education.

95. The Special Rapporteur recommends that a human rights strategy be formulated on the basis of Uganda's existing international and domestic commitments and that the reporting process under the ratified human rights treaties be utilized for stocktaking. This process would make visible many issues that have thus far escaped attention, such as non-registration of children at birth, or non-recording of race, ethnicity, tribe and religion (as Uganda's Constitution requires) upon entry into the educational system, and would enable the creation of baseline data and the setting up of safeguards against discrimination, or monitoring the association between schooling and child labour.

96. The articulation of a human rights strategy would usefully complement the emerging design of a follow up to UPE. The first UPE generation will leave primary school in the year 2003 and expectations concerning the programme will be tested at that time. They are many. UPE is expected, on the one hand, to contribute to poverty eradication and, on the other hand, to create an increased demand for secondary education, while also contributing to postponed childbearing and a smaller number of children, as well as generating a shared notion of the rights and duties of citizenship. Education is proverbially loaded with many diverse expectations as to what it should accomplish; heightened expectations tend to shift to disappointment if they are not met, which then reduces commitment to education. A human rights strategy could usefully combine many loose threads within and outside the sector of education into a comprehensive rights based vision of Uganda's future.

Notes

1/ The Uganda Commission of Inquiry into the Violation of Human Rights, Pearl of Blood, Summary of the Report of the Commission, Kampala, October 1994, p. 10.

2/ Statement of Godfrey Binaisa, President of Uganda, at the 14th plenary meeting of the General Assembly, Official Records of the General Assembly, Thirty-fourth session, Plenary meetings, vol. I, pp. 269-270.

3/ Report of the Secretary-General to the Commission on Human Rights on assistance to Uganda, 8 December 1983 (E/CN.4/1984/45), pp. 2-3 and 22.

4/ A.R. Tucker, Eighteen Years in Uganda and East Africa, Arnolds, London, 1908, vol. II, p. 151.

5/ Department of Education - Report by the Education Secretary of the African Inland Mission, 1925 Annual Report, Uganda Protectorate Government Printer, Entebbe, 1926, p. 16.

6/ Each Government adopted a formal education strategy. The first four-year plan (1963-1966) emphasized secondary and higher education in the spirit of what was then called "manpower development", and this thrust was followed in the second five-year plan (1966-1971). The latter plan was interrupted by a change of policy in 1969, denoted as a shift to socialism. The third five-year plan (1971-1976) continued the previous emphasis on secondary education, with a change of orientation in 1975 towards indigenization and rural development. None of these plans materialized. The end of warfare in 1986 was followed by the rehabilitation programme (1988-1991), which started rebuilding educational infrastructure.

7/ Ministry of Education, Evolution of Uganda's Educational System, Kampala, 1986, p. 4.

8/ Education for National Integration and Development. Report of Education Policy Review Commission, Ministry of Education, Kampala, January 1989; the final version was issued in April 1991.

9/ Government of Uganda, Education for National Integration and Development. Government White Paper on the Education Policy Review Commission Report, Government Printer, Kampala, April 1992.

10/ The Republic of Uganda, Background to the Budget 1999/2000, Ministry of Finance, Planning and Economic Development, Kampala, June 1999, p. 89.

11/ A comparison between results of the 1989/90 Household Budget Survey and the 1992/93 Integrated Household Survey revealed "a dramatic fall in household expenditure". The World Bank, Uganda: The Challenge of Growth and Poverty Reduction. A World Bank Country Study, Washington, D.C., January 1996, para. 21, p. 87.

12/ "Uganda: Enhanced structural adjustment facility policy framework paper, 1998-99-2000/01", prepared by the Ugandan authorities in collaboration with the staffs of the International Monetary Fund and the World Bank, 28 October 1998, para. 5.

13/ Republic of Uganda, "Memorandum of economic and financial policies", annex to the Letter of Intent dated 28 October 1998, addressed to the Managing Director of the International Monetary Fund by the Minister of Finance, Planning and Economic Development, para. 11.

14/ The World Bank, Uganda: The Challenge of Growth and Poverty Reduction. A World Bank Country Study, Washington, D.C., January 1996, para. 4.21, p. 67.

15/ "Uganda: Enhanced structural adjustment facility policy framework paper, 1998-99-2000/01", prepared by the Ugandan authorities in collaboration with the staffs of the International Monetary Fund and the World Bank, 28 October 1998, para. 1.

16/ The World Bank Annual Report 1998, Washington, D.C., 1999, table 1: HIPC initiative: Status of country cases, p. 5.

17/ Uganda ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985, the International Covenant on Economic, Social and Cultural Rights in 1986, the Convention on the Rights of the Child in 1990 and the International Covenant on Civil and Political Rights in 1995, all without reservations, as well as the African Charter on Human and Peoples' Rights and the Charter on the Rights and Welfare of the African Child.

18/ Report to the Committee on the Elimination of Discrimination against Women (fourteenth session), (A/50/38) 31 May 1995, paras. 286 and 335-336.

19/ Committee on the Rights of the Child, Concluding observations: Uganda (CRC/C/15/Add. 80), of 21 October 1997, paras. 16 and 18.

20/ Uganda Human Rights Commission, 1997 Annual Report, Kampala, July 1998, p. 49.

21/ A. Kelles-Viitanen, "Employment promotion of women in Uganda: From disabling to enabling environment", ILO, 1994, p. 11, mimeographed.

22/ Republic of Uganda, Education Strategic Investment Plan 1998-2003, Government of Uganda, Kampala, November 1998.

23/ The Republic of Uganda, Background to the Budget 1999/2000, Ministry of Finance, Planning and Economic Development, Kampala, June 1999, p. 20.

24/ E. Ablo and R. Reinikka, Do Budgets Really Matter? Evidence from Public Spending on Education and Health in Uganda, Policy Research Working Paper No. 1926, The World Bank, Washington, D.C., 1996, p. 31.

25/ Republic of Uganda, Education Strategic Investment Plan 1998-2003, Government of Uganda, Kampala, November 1998, p. 14.

26/ The data of the Ministry of Education placed net primary enrolment at 55 per cent in 1994/1995, 56 per cent in 1995/1996, and the preliminary estimate for 1997/1998 was 91 per cent. The rate of completion of the seven years of primary school (P1-P7) was 30 per cent in 1994/1995, 35 per cent in 1995/1996 and was estimated at 40 per cent for 1997/1998. Republic of Uganda, Memorandum of economic and financial policies annexed to the Letter of Intent dated 28 October 1998, addressed to the Managing Director of the International Monetary Fund by the Minister of Finance, Planning and Economic Development, table 1: Social outcome indicators, 1994/1995-2004/2005, p. 13.

27/ UNESCO Statistical Yearbook 1998, UNESCO, Paris, 1999, table 3.97.

28/ "The development of education in Uganda 1990-1992", a report to the 43rd session of the International Conference on Education, Uganda National Commission for UNESCO, 1992.

29/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add. 40), 17 June 1996, para. 54.

30/ The preliminary results of the school census (called "headcount") of 11 May 1999 placed primary school enrolment at 6.2 million (out of which 5.8 million under UPE), while the secondary enrolment of 462,300 includes both public and private schools. For Kampala, for example, UPE covered 74 per cent of learners, while at the secondary level the majority were in private schools.

31/ C. Watson Children First. Talking with Your Community about Child Welfare and Development, The Republic of Uganda & UNICEF, Kampala, December 1996, p. 13.

32/ UNICEF, The State of the World's Children 1999, UNICEF, New York, 1999, p. 109.

33/ J.B. Mugaju, ed., An Analytical Review of Uganda's Decade of Reforms 1986-1996, Fountain Publishers, Kampala, 1996, p. 72.

34/ "The development of education in Uganda 1990-1992", a report to the 43rd session of the International Conference on Education, Uganda National Commission for UNESCO, 1992.

35/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add.40), 17 June 1996, para. 174.

36/ Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1999/62), 28 December 1998, para. 307.

37/ Commission on Human Rights, Abduction of children from northern Uganda. Report of the Secretary-General (E/CN.4/1999/69), 27 January 1999, para. 36.

38/ The Republic of Uganda/UNICEF, Northern Uganda Psycho-Social Needs Assessment Report (NUPSNA), Kampala, November 1998, p. 111.

39/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add.40), 17 June 1996, para. 256.

40/ "The girl child in Rwanda: a situation analysis (Desk review)", Directorate of Gender, Ministry of Gender and Community Development, Kampala, 1995, p. 95, mimeographed.

41/ G. Wambuzi and T. Bukenya, Sharing Our World 5: Living Together in Uganda, Macmillan Social Studies Programme, Kampala, 1996, p. 27.

42/ Y. Tandon and A. Raphael, The New Position of East Africa's Asians: Problems of a Displaced Minority, The Minority Rights Group, Report No. 16, London, November 1984, p. 2.

43/ N. Postletwaite, "The conditions of primary schools in least-developed countries", International Review of Education, vol. 44, 1998, No. 4, p. 306.

44/ J. Oloka-Onyango, "Uganda", in P. Baehr and others (eds.) Human Rights in Developing Countries Yearbook 1996, Kluwer Law International & Nordic Human Rights Publications, 1997, p. 399.

45/ C. Watson, Children First. Talking with Your Community about Child Welfare and Development, The Republic of Uganda & UNICEF, Kampala, December 1996, p. 25.

46/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add.40), 17 June 1996, para. 211.

47/ B.P. Kiwanuka, Curriculum Review Task Force Report, NCDC, Kampala, 1993.

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Report submitted by Katarina Tomaševski, Special Rapporteur
on the right to education

Addendum

Mission to the United Kingdom of Great Britain
and Northern Ireland (England)
18-22 October 1999

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I. INTRODUCTION

1. The Special Rapporteur's mission to the United Kingdom followed her mission to Uganda from 26 June to 2 July 1999 (E/CN.4/2000/6/Add.1 of 9 August 1999), and was inspired by the United Kingdom's rights-based education, which had just been introduced. The Government invited the Special Rapporteur to visit the country on 12 August 1999 and the dates for the mission were settled for 18 to 22 October 1999. United Nations budgetary constraints limited the mission to five working days. This confined the Special Rapporteur, and a human rights officer of the Office of the High Commissioner for Human Rights accompanying her, to London and its surroundings. With the exception of the international dimensions of the right to education and the United Kingdom's international human rights obligations, this report deals only with England and does not encompass Northern Ireland, Scotland or Wales, which have legal and policy frameworks for education that are partially or wholly distinct from those of England. References to domestic educational law, policy or practice thus refer to England alone.

2. The present report reflects constraints of time and space: a five-day mission is a very short period in which to assess the human rights dimensions of such a complex subject as education, while the necessity to limit this report to 28 pages forced the Special Rapporteur to highlight only some of the issues she would have wished to address, dealing with each of them as briefly as possible.

3. The objectives of the mission arose from the Special Rapporteur's focus on the international and domestic facets of the right to education in conjunction, and were motivated by two important developments in the United Kingdom.

> On the international level, the United Kingdom's precedent-setting shift to rights-based education constituted a focus of the mission. Strengthened by the Government's debt relief initiatives, rights-based education represents a milestone in international development cooperation.
>
> Domestically, the Government has declared education to constitute its highest priority. Different from its development cooperation policy, the Government's domestic vocabulary has not included rights-based education, which provided an interesting theme for the Special Rapporteur to explore.

4. During her mission, the Special Rapporteur met with numerous officials of the Department for Education and Employment, the Department for International Development, the Office for Standards in Education (OFSTED), the Social Exclusion Unit at the Cabinet Office, and the Commission for Racial Equality. She also met with Her Majesty's Chief Inspector of Prisons and officials of the Education Services at Her Majesty's Prison Service, as well as visiting the Orchard Lodge Resource Centre, an education-intensive institution for boys and young men who are (or are at risk of being) in conflict with the law. Besides these meetings, which were arranged by the Government, the Special Rapporteur met with representatives of non-governmental organizations working in education, development and human rights, and with representatives of teachers' and students' associations, as well as with individual child and adult learners.

5. The Special Rapporteur would like to acknowledge with gratitude the effort made by the Government to arrange the schedule according to her wishes, even if all could not be accommodated.

6. The Special Rapporteur's efforts to elucidate the human rights dimensions of education must have tested the patience of many or all of her interlocutors, and she would like to record her sincere appreciation of their willingness to look at education from the human rights perspective. The history of education is incomparably longer than the notion of the right to education and rights in education, and the Special Rapporteur is fully aware of the novelty of issues which her mandate has broached. She therefore deems that her mission and this report constitute the beginning of a dialogue rather than a self-contained activity.

II. THE CONTEXT: EDUCATION BETWEEN THE PAST AND THE COMING MILLENNIUM

7. At the time of the Special Rapporteur's visit, a sense of economic optimism was palpable. The inflation rate was the lowest since 1963, the unemployment rate the lowest since 1980. The notorious stagflation of the 1970s (a combination of high inflation and high unemployment) seemed relegated to history. Buoyant tax revenue was expected to result in a sizeable budget surplus and speculation was rife as to the use to which it would be put. Education was a much championed claimant for additional funding. Not a day passed without one or another facet of education being in the news - the shortage, stressful professional lives and low salaries of teachers, the extension of pre-school education to three-year-olds, the real or virtual improvements in school-leaving exams. This high visibility of education in public life fuelled constant questioning of any and every facet of education. The turn of the millennium triggers a look back and a look forward, further increasing interest in the past and future of education. The current English educational system has been shaped by its long historical tradition and by changes in the periods 1979-1996 and 1997-1999, rather than by new notions of the right to education and human rights in education. Its historical legacy has not been rights-based and this has influenced the vision of education for the next millennium.

A. Historical legacy

8. The long history of education in England and the export of its educational models at their different stages to different corners of the world provide a fascinating background for studying the contemporary model of education.

9. Primary schooling draws its beginnings from the founding of the Society for Promoting Christian Knowledge in 1698, when it consisted simply of learning the catechism by heart. The expansion of what was subsequently termed "popular education" through Sunday schools reinforced the religious grounding of education. The 1802 Health and Morals of Apprentices Act institutionalized this practice, obliging all apprentices to attend religious education classes each Sunday and adding that they should receive some instruction in reading, writing and 'rithmetic (the three Rs) during their working hours.

10. A legislative proposal placed before the House of Commons in 1807 to provide two years of free primary education in parochial schools was rejected on two grounds: unwillingness to bear the anticipated costs and fears that education might make "the lower orders" discontented. Decades of disagreement about religion postponed adoption of the first Education Act until 1870. It introduced education for children aged 5 to 12 in two types of schools, non-denominational schools governed by school boards (with the parental right to withdraw children from religious education) and denominational voluntary schools.

11. Secondary schools reach much further back into history, to Winchester (founded in 1382) and Eton (founded in 1440). Such schools were alternatively called grammar schools (libera schola grammaticalis, originating from the teaching of classical languages) or colleges (stemming from establishment as a collegiate foundation). These earlier, elite, academic secondary schools (based on the values of elitism and excellence) and the later religious, popular schools bifurcated access to education, schools were segregated by religion and class. The pre-Second World War broadening of access to primary education and the post-war all-encompassing compulsory education did not go as far as equalizing the orientation and quality of education to which learners could gain access. Such a stratified system of schooling has continued ever since. Today's vocabulary retains unique features of Englishness: an English public school would be defined as private in all other countries, what is called a public school elsewhere corresponds to a State school in England.

B. Changes in the period 1944-1996

12. The 1944 Education Act introduced universal access to primary education for all, free of charge, four years before such a right was affirmed in the Universal Declaration of Human Rights. On this basis, the post-war education strategy initially prioritized equality of opportunity. Making education compulsory meant that parents had a duty to ensure that their children received education, and this understanding has continued ever since.[1] The corollary emphasis on parental duties and rights has hampered the notion of the right of the child to education and the child's rights in education.

13. The post-war approach to education was affected by the economic crisis of the 1970s, when the previously constant increase in public investment in education was halted and then diminished. Priorities for education were diverted from the goal of equality of opportunity to that of reversing the United Kingdom's economic decline and enhancing national and individual economic competitiveness. Diminished public funding reduced both the availability and the accessibility of free-of-charge schooling. Market-based education broadened parents' choices, they were, alongside employers, defined as consumers of education.[2] Private investment in education was stimulated by pursuit of excellence and by high rates of return to investment stemming from enhanced individual competitiveness.

14. The year 1988 was marked by two big changes: the introduction of the uniform national curriculum,[3] followed by uniform assessments of learners' performance. Attainment targets were (and are) specified and are verified through testing at ages 7, 11 and 14 (defined as key stages), culminating in the General Certificate of Secondary Education (GCSE). The GCSE is a uniform examination for all learners, assessing all levels of performance on a common scale. The testing, grading and ranking of all learners was followed by the ranking of schools by

examination results. School ranking is based on the percentage of pupils passing the GCSE examination in five subjects at the highest grades (A-C) and is accompanied by wide publicity in the mass media for school league tables.

15. Testing nudges (many would say pressurizes) schools to compete amongst themselves for their position in the league tables, thereby enhancing the overall performance. Individual schools whose learners perform excellently are ranked the highest and those whose learners are underperforming sink to the bottom. Research has shown that schools' prominent position in the league tables derives from their practice of selecting pupils whose family and social background, as well as their previous attainment, makes them likely to perform well. The consequence of the ranking of schools is huge parental demand for schools ranked high, whose limited supply enables them to determine and uphold criteria for admission. Parental preference is unlikely to favour "sink schools", which have to admit any learners, even those expelled from other schools. The relationship between poor schools and poor learners is only partially addressed by public funding because the key to funding (both private and public) is performance.

16. The result is a rigid stratification within the educational system. Although all resident children are encompassed by compulsory schooling, the type and quality of education they receive vary enormously.

17. A great deal of change was introduced into education in the period 1988-1996 along these lines. The 1996 Education Act aimed to bring together and systematically amend all statutory regulations relating to education. Subsequent to the change of Government in 1997, further amendments have been made. The pace of change between 1988 and 1996 was rapid, many changes were controversial and quite a few were resisted. The former Government promised a five-year moratorium on new initiatives, but the new Government has continued with rapidly-paced, highly demanding changes.

C. Government strategy

18. Education is guided by the overall aim of achieving a knowledge-driven economy, favouring "science and innovation, creativity and enterprise, skills and knowledge", and moving towards commercialization of British science[4] to contribute to wealth-creation. The objective is to create a world-class education service so as to match the performance of those countries which the United Kingdom sees as its main international competitors. Alongside general economic competitiveness, the existence of a market in education enhances education-specific competitiveness. The estimated annual value of the United Kingdom's export of education varies between £5 billion and £12 billion, with all estimates pointing to its increase. Further increase is planned, with the ambition for the United Kingdom to conquer 25 per cent of the global market share in higher education.[5] Education is also expected to contribute to the eradication of poverty in the country; it is seen as the key to employment and employment is seen as the path out of poverty.

19. This emphasis on a knowledge-driven economy requires altering the heritage of adult illiteracy and innumeracy, higher in England than in other Western European countries - 7 million people are estimated not to have any qualification whatsoever.[6] This heritage is attributed to the neglect of public education in the previous decades. Investment in basic

education and the insistence on enhanced performance by all learners is seen as the foundation for both individual economic self-sustenance and international competitiveness. The White Paper entitled "Excellence in schools" (issued 67 days after the electoral victory in May 1997) outlined the Government's design for change. Emphasis on education-as-investment and on competitiveness tends to undermine education which is defined by the objective of strengthening the ties which bind people.[7] The planned introduction of citizenship education (see section IV D 2) is expected to remedy this slant.

III. INTERNATIONAL DIMENSIONS: RIGHTS-BASED EDUCATION

20. The Government's definition of education, both domestically and internationally, emphasizes its role as the pathway out of poverty. The 1997 white paper "Eliminating world poverty: a challenge for the 21st century" committed the Government to refocusing international cooperation on pro-poor policy and allocations and it also introduced a rights-based approach. The Special Rapporteur is very much appreciative of this precedent, which gives hope for elevating human rights from the margins of international development cooperation into its core. The Government's commitment to rights-based development is accompanied by its concerted effort to increase resources for the poorest countries, especially through debt relief. The rights-based approach can only be meaningful if a rhetorical recognition of the basic rights of the poorest people in the poorest countries is reflected in the availability of resources necessary for the implementation of governmental human rights obligations and the Special Rapporteur welcomes the Government's emphasis on resource allocations in any plans for the attainment of anti-poverty or development goals.[8] The realization of such goals is a necessary foundation upon which the recognition and promotion of human rights can be built.

21. Ensuring that debt relief has a positive impact on human rights requires redirection of funds earmarked for debt servicing towards long-term investment in education. Much as it is generally known that such a redirection benefits the poorest people and the poorest countries, it has not been made a priority until recently. The Government has taken a leading role in debt relief and has been instrumental in facilitating the agreement reached during the Group of 8 Cologne meeting (in June 1999) and the subsequent one in September 1999 at the annual IMF/World Bank annual meeting. At the time of the Special Rapporteur's visit, the prospects for eliminating obstacles to debt relief seemed good but it was much too early to discern whether promises would be converted into commitments, and commitments into allocations. She will report to the Commission on further developments in her forthcoming annual report (in December 1999) and her statement to the Commission (in April 2000).

22. The common Treasury and Department for International Development policy made possible tackling all major determinants of financial inflows and outflows with regard to developing countries, including debt servicing, trade and investment as well as aid. The Government's commitment to increase aid (by more than one quarter) represents a welcome departure from the recent trend of diminishing aid flows. The Government's new approach also entailed a merger between foreign and development policy, evidenced, for example, in the joint publication of annual human rights reports by the Foreign and Commonwealth Office and the Department for International Development. The affirmation of human rights as guidance for foreign policy has been accompanied by a pledge to make it ethical, while development policy is to be remoulded by the rights-based approach.

23 The Government has emphasized that it gives "social, economic and cultural rights the same weight as civil and political rights" and further committed itself to "using Britain's influence to seek the realization of the social and economic rights contained in the Universal Declaration for all the people in the world" [9] An immediate implication of this rights-based approach is the recognition of beneficiaries of any development intervention as subjects of rights, requiring the acceptance of their right to make decisions for themselves In education, this entails balancing the rights and freedoms of relevant adults (primarily parents and teachers, alongside the main State actors) against the rights and best interests of the child Children are given a formal right to decide for themselves only after they become adults The shift to rights-based education thus promises a long-overdue change

24 In May 1999, the rights-based approach was applied to education in "Learning opportunities for all a policy framework for education", which linked education (defined as acquisition of knowledge and skills) to the principal objective of poverty eradication The conceptual underpinning was the vicious circle in which poverty was seen to be caused by lack of access to education, and lack of education then caused the perpetuation of poverty Rupturing this vicious circle necessitates long-term investment in education so as to enable its beneficiaries to become economically self-sustaining and to generate revenue needed for investment in the education of the coming generations

25 The "Policy framework" affirms that Governments have the primary responsibility for financing primary education, thus explicitly reaffirming one of their principal human rights obligations Its additional rationale is to enable children to become economically productive adults and to prevent them from being economically exploited as children The linkages between education and employment and the role of education in the elimination of the exploitation of child labour require thoughtful design Rights-based strategies ought to adapt education to the circumstances prevailing in the countries, communities and families where the children are This requires resisting the temptation to export models of education suited to industrial or industrializing countries, or to assume that secondary education is accessible to children who complete primary school, or to found education upon a vision of access to employment, in circumstances where the fate of most school leavers is what is alternatively called self-employment or the informal sector

26 The Special Rapporteur is fully aware of the novelty of rights-based education and the conceptual challenges which its operationalization entails and welcomes this pioneering effort

IV DOMESTIC FRAMEWORK

27 There is no explicit recognition of the right to education in English law The United Kingdom is party to international human rights treaties which require such recognition, but the absence of a written constitution (where recognized human rights are usually listed and defined), the complexity of legislation dealing with education and the variety of jurisprudence addressing various facets of the right to education combine to prevent a clear-cut assessment of the nature and scope of the right to education

28 The 1998 Human Rights Act has provided for direct applicability of the European Convention on Human Rights, the Act is planned to come into force on 2 October 2000 This

legislative change has introduced into the domestic legal systems those rights that are defined in the European Convention, within the limitations embodied in the United Kingdom's reservations. Because the European Convention does not recognize social and economic rights, the Government's tendency to conceive social and economic rights as "programmatic objectives rather than legal obligations"[10] is likely to continue. Likewise, the reservation affecting the right to education continues.[11] The right to education is thus confined to parental rights concerning their children's education and non-discriminatory access to the existing public educational institutions, further limited by the qualification that the Government's financial obligations remain reasonable. The recent increase in public funding for education is planned to bring it up to 5 per cent of GNP in 2001-2002,[12] still leaving the United Kingdom at the bottom of the Organization for Economic Cooperation and Development (OECD) ranking, much lower than Sweden (9 per cent) or Canada (7 per cent), and just above Italy, Turkey and Greece.[13]

A. Human rights in education

29. Statutory enactments relating to education do not use human rights language nor do they mention international human rights law. Where individual rights are mentioned, these relate to parents who have been allowed to challenge school admissions as of 1980.[14] Wide publicity for schools' league tables makes admission of their children to as good a school as possible crucially important to most parents. As the number of applications to the highest ranked schools exceeds their capacity many times over, the postulated parental choice in reality becomes the schools' choice.[15] Such choice can be - and is - challenged by parents before appeal panels, as they were named in 1998. Children of compulsory school age have guaranteed access to publicly-funded schooling, but their admission to a specific school creates continuous controversy and triggers litigation.[16]

30. A great deal of jurisprudence has developed on the basis of parental challenges of admissions or expulsions of their children, the conditions in schools (especially safety and hygiene), methods of teaching and school discipline. Human rights dimensions of education are litigated but such jurisprudence is found under education law, while no analysis has yet identified the nature and scope of human rights which this jurisprudence outlines.

31. Schooling is seen as "a contract between school and parents"[17] and the child does not have legal standing; children are thus absent as actors in this process although it is aimed at their learning. The Committee on the Rights of the Child recommended, for example, the affirmation of the right of the child expelled from school to appeal that decision.[18] Recent domestic developments provide additional incentives for a conceptual shift towards the child as the subject of the right to education. Studies leading to the requirement of written home-school agreements as of 1 September 1999 highlighted the finding that "pupils were very keen to sign. For many pupils it is the first document they are asked to sign and they feel very 'grown-up' and take it very seriously".[19] The Special Rapporteur feels that such findings point towards the recognition of the child as the subject of the right to education.

32. The emphasis on parental rights has visible effects on children in the care of the State. Where the State acts *in loco parentis*, with the local authority acting as a corporate parent, it has regularly proved unsuited for this task: three quarters of children in care have been found to leave compulsory schooling having obtained no qualification.[20]

B Discrimination or social exclusion?

33 The term "social exclusion" was developed in the European Union to denote the marginalization of individuals through economic deprivation and social isolation. The emphasis on "social" - as distinct from "statal" - reflects the diminished role of the State, while "exclusion" questions the postulated inclusiveness of social policies. Social exclusion could be defined as a denial of social rights but human rights language is not used; terms like "disadvantage" or "deprivation" are used instead of "denial of equal rights" or "discrimination". The term "social exclusion" has not been defined by the European Union nor by the United Kingdom[21] and encompasses divergent phenomena, ranging from expulsion from school to teenage pregnancy. The affected people straddle categorizations by race, gender, ethnicity, provenance and class.[22]

34 The existing legislative framework prohibits discrimination on some grounds but not on others. The Sex Discrimination Act of 1975 (and the associated Equal Opportunities Commission), the Race Relations Act of 1976 (and the associated Racial Equality Commission), the Disability Discrimination Act of 1995 (and the planned Disability Rights Commission) form the pillars of the system. There is no legislation relating to discrimination on the grounds of religion[23] or language, while the categorization by class has thus far escaped a legislative link with equality of opportunity and treatment. The Committee on the Elimination of Racial Discrimination noted "the non-incorporation of the full substance of the Convention"[24] in domestic law and the Special Rapporteur endorses this finding, emphasizing that the absence of an explicit prohibition of discrimination on all pertinent grounds prevents the identification of rights that are unequally enjoyed, with a view to their equal attainment.

35 The census provides an opportunity for self-classification of individuals into ethnic categories, which combine race, colour, ethnicity and provenance.[25] Religion or language are not recorded, nor is ethnic categorization applied to (or by) individuals who define themselves as "white". Overlapping grounds for discrimination (race and religion and language, for example, or sex and provenance and religion) are made invisible. What was termed "ethnic monitoring" was introduced in 1990-1991 to develop a profile of pupils according to their ethnic background, mother tongue and religion - such information being sought from parents on a voluntary basis.[26] Since the provision of such data is not obligatory, the picture obtained is not comprehensive.

36 The proportion of ethnic minority learners in compulsory education is estimated to be more than twice the ethnic minority share in the adult population (12 per cent in school, 5 per cent in the adult population).[27] A part of the reason for this is the different age pyramid: half of the ethnic minority population is younger than 25, compared to less than one third of the white population. The existing statistics reflect the diversity encompassed by the term "ethnic minority learners". English is recorded as an additional language for 8.4 per cent of the 11.8 per cent of primary school pupils classified as "ethnic minority", while it is not known how many learners classified as "white" do not have English as their mother tongue. Learners classified as "any other minority ethnic group" amount to 2.1 per cent, exceeding the proportion of Chinese (0.3 per cent) and Bangladeshi (1 per cent) pupils. The notion that educational performance decreases with darker pigmentation is belied by data showing that white boys with a working-class background may be found performing worse than their Chinese or Indian counterparts.[28]

37 The Special Rapporteur is concerned about the customary reference to all non-white people as "ethnic minorities" because this all-encompassing extension of the term "ethnic"or "minority" does not conform to international human rights law It is too broad to allow for the identification of the pertinent internationally prohibited grounds of discrimination, to further lead to studying their interplay and multiplication in the case of specific communities and individuals At the end of her mission, the Special Rapporteur noticed that all government officials she had talked with were white, which perhaps provides one possible explanation for the continued utilization of the term "ethnic minorities" to refer to non-white people

V HUMAN RIGHTS OBLIGATIONS

A Availability

38 A widespread, if erroneous, image of the right to education equates it with availability of schools and teachers Where schools are available, as is the case in England, further questions would then not be asked, precluding the inquiry from advancing from statistical availability of schools to the right to education This right entails, besides availability of schools, governmental human rights obligations to make schooling accessible, acceptable and adaptable

39 Western industrialized countries introduced all-encompassing compulsory education in earlier stages of their development, linking mass education to the process of industrialization, for which England was the pioneer A specific feature of its Englishness was the separation between private and state schools, boarding and day schools, as well as between general and/or academic from popular and/or vocational education, which survived all attempts to bridge the abyss between the two

1 Schools

40 While schools are - statistically speaking - available in England, this by itself does not exhaust the need to inquire into the human rights dimensions of availability Vast differences exist among institutions encompassed by the common name "school" and are expressed in popular references to "posh" and "sink" schools, providing schooling of very high and unacceptably low quality The latter have been a principal target of the Government's policy of "naming" and "shaming", the identification of the worst performing (called failing) schools with the intention of bringing their performance to the minimal acceptable level

41 As has been described above (in section I B), schools are ranked according to the performance of their learners in tests, and this ranking reinforces the heritage of stratified education Output-related ranking (i e performance and efficiency targets) inevitably favours selecting learners by their likelihood to perform well and by orientating the contents and methods of teaching to enhance their success in tests The underlying rationale discourages the investment of time and effort necessary for those learners who are unlikely to do well because of disabilities or difficulties or because they lack competitive drive The underlying rationale is institutionalized competition between schools and between learners Glossy colour brochures whereby individual schools target parents so as to enhance the parental demand for their educational services, or schools' annual meetings with parents (resembling shareholder

meetings), would seem incomprehensible to those who define education as a public service and/or a public good, or by the best interests of each child as guidance for the learning process which schooling should facilitate.

2. Teachers

42. The Government has acknowledged that its reform of the teaching profession has been the most comprehensive but also the most controversial.[29] The Special Rapporteur was often reminded of the shortage of teachers in many conversations she had, and this has been a constant theme in the domestic media. Difficulties in the recruitment of teachers have been a consequence of the low prestige of the teaching profession resulting from the cumulation of their loss of professional autonomy, long working hours (estimated at an average 51 hours per week) and the expectations upon teachers to solve most, if not all, social problems.

43. Teachers are employed by local authorities or by the governing boards of individual schools, their basic conditions of service and salary are determined by law. Ongoing changes aimed at increasing teachers' salaries on the basis of their pupils' performance are reminiscent of the performance specifications which were the basis for teachers' salaries in the period 1862-1890 ("payment by results"), through annual age-specific subject-based testing of pupils.[30]

B. Accessibility

44. The United Kingdom introduced free primary education in 1944, well before it was required to do so by international human rights law. Attendance at school is compulsory between the ages of 5 and 16, while the age range encompassed by the statutory regulation of education has been increased to 2 to 19, extended further through the introduction of lifelong learning.

45. Education has been extended downwards through the Government's policy of enrolling four-year-olds in pre-school education. The Government has introduced nursery education for all four-year-olds and is planning to increase the coverage to three-year-olds. Learners in independent schools can be as young as six weeks.[31] Such pre-compulsory education has not been defined in terms of entitlements.

46. Access to schooling for those above 16 is the subject of a maze of legislation and government special projects. Post-compulsory education has affirmed a new right to time off for studying for those between 16 and 18 who are identified as disadvantaged.[32] The school-leaving age of 16 has proved to be too low for learners to be able to secure a livelihood, because the demand for young people with a low level of education and qualifications has plummeted. Educational reforms have shifted the emphasis towards labour market demands, marketable skills and learning to compete. As the youth labour market has continued shrinking, particularly with the collapse of mass industrial production, which has particularly affected young men, education has been lengthened and vocationalized, signalling the transition from an industrial to a post-industrial stage. The process of lengthening education is likely to gradually evolve towards defining individual entitlements and the corresponding obligations of the public authorities, although the usage of human rights language does not seem likely.

1. Compulsory education

47. While of compulsory school age, "pupils are entitled by law to an education suitable for their age, ability, aptitude and any special educational needs they may have".[33] The corresponding obligation to make education available has been devolved to the local education authorities. Access to school is defined broadly to encompass all resident children, regardless of their citizenship, or temporary or permanent residence, and thus includes children in care, child offenders, asylum-seekers, refugees and Travellers. Such children have guaranteed access to schooling but no choice. The criterion of availability is thus regularly met, the criterion of accessibility is often reversed and schooling is provided where the children are, even if the environment is not learning-friendly, while fulfilment of the criteria of acceptability and adaptability routinely leaves a lot to be desired.

48. Education is proverbially held responsible for all social ills and simultaneously expected to solve them. It is also expected to prove its worth in England in very many ways: from improving the literacy and numeracy of the youngest learners, to raising the overall educational performance of all, to offering a world class educational service and contributing to the country's export performance. The one term that the Special Rapporteur heard often from educationists was "value-added". This term reflects a search to identify and quantify the value that schooling adds to the predictable educational performance of learners. That the child's family background is a strong determinant of the child's educational performance is well known: the educational development of 22-month-old infants from the highest social class is 14 per cent superior to those from the lowest class.[34] This gap is likely to expand with time into an abyss unless there is a comprehensive, sustained and well-resourced strategy to equalize opportunities and - in a long-time perspective - educational attainment.

49. The Government has developed an ambitious short-term strategy "designed to raise performance in primary schools beyond any levels previously achieved and at a faster rate than ever before".[35] Eradication of child poverty is a long-term objective, to be attained within 20 years.[36] The immediacy of the need to improve educational performance heightens the pressure on schools by implicitly demanding uniformly improved attainment. Schools' intake, however, is a strong determinant of the level of their educational performance. The search for the difference that the quality of schooling can make has focused on the term "value-added". The underlying rationale has been exemplified in the Government's motto that poverty is no excuse.

50. It is planned for child poverty to be eradicated within 20 years, while improved educational attainment of poor children is expected immediately. The multiplication of factors that exacerbate the influence of poverty on poor educational performance (such as family environment, provenance or mother tongue) necessitates, in the Special Rapporteur's opinion, a clear identification of the influence and confluence of specific factors, especially those that coincide with the internationally prohibited grounds of discrimination (such as race, ethnicity, gender, religion, language, social origin or disability).

(a) Children expelled from school

51. A conceptual conflict between the child's right to education and the child's duty to attend school is embodied in a series of statutory requirements inherited from the pre-human-rights era. Because education was conceptualized as a duty rather than a right, parents (or the State in loco parentis) had the duty to ensure that their children received education, the child had the duty to attend school regularly (failure to do so was punished as an offence of truancy), while the local authorities have been responsible for enforcing regular school attendance. Another, more recent, conceptual conflict emanates from the clash between the child's duty to receive education and expulsion from school.

52. Permanent exclusions from school increased from 3,000 in 1990-1991 to 13,500 in 1996-1997, and then decreased to 12,300 in 1997-1998.[37] This decrease could be an early result of the Government's pledge to reduce resort to expulsions. The figures encompass both primary and secondary schools and thus reach beyond compulsory school age. Most exclusions affect learners aged between 12 and 15, who are thus of compulsory school age. Learners with special needs have had the highest rate of exclusion (seven times the average), black learners are over-represented four times, while Chinese learners are under-represented three times. 84 per cent of excluded learners are boys.[38]

53. Reasons for expulsion are not known because exclusion is the prerogative of each school. They range from pregnancy, to a seven-year old's sticking out his tongue at a teacher to bullying other pupils or teachers. The punishment is diversion out of school into periodic tuition which gives the expelled children about 10 per cent of schooling.[39]

54. Some of the factors accounting for such a large number of exclusions have been traced to competitiveness. The seven-fold likelihood that pupils with special needs will be excluded has been associated with the improvement of school's performance after underperforming pupils were excluded.

(b) Children deprived of their liberty

55. Children deprived of their liberty within the compulsory education age range (below 16) have a statutory entitlement to education, which is set at 15 hours per week. There is a proposal to double the number of hours to 30.

56. Children can be imprisoned as of the age of 10 (the minimum age of criminal responsibility[40]) although the term used is not "imprisonment" but "secure accommodation" and they are not to be referred to as "children" but as "youth". A sad feature of the system is that 50 per cent of children remanded in custody never receive a custodial sentence[41] and so the experience of imprisonment, as well as the brutalization which it often entails, could - and should - have been avoided.

57. The scheme for dealing with the youngest suspects, detainees and offenders is laid down in a complicated legal framework which has been reformed recently. The Youth Justice Board (established in September 1998) is expected to unify policy-making and guidance as well as to obtain jurisdiction over various and diverse institutions under a central authority. The

Government's policy for deterring and preventing youth offending relies on education as one of its main pillars. Preventing youth offending anticipates that the Justice Board will "demonstrate that offending by children and young people is being prevented" by March 2002.[42] How negative evidence could be furnished within such a short period, namely that offending would have taken place was it not for specific interventions, remains unclear to the Special Rapporteur.

58. The Special Rapporteur visited Orchard Lodge, an institution which focuses on education as the means for preventing offending and re-offending by boys, combining an open regime for boys who are legally defined as being in need or at risk with secure accommodation for those defined as offenders. This institution provides a number of thoughtfully designed and imaginative features: the treatment is individualized to the point of one-to-one tutoring, the composition of the staff reflects that of the inmates (the majority of whom are black, young, and male) enabling the boys to have role models. The boys are motivated by making studying and learning count as success, which includes encouragement of the care and administrative staff to study and sit for exams together with the boys.

59. Such education-intensive institutions are rare, even for children and juveniles. The situation in adult prisons has been depicted by the Chief Inspector of Prisons, who remarked that "efficiency savings" reduced opportunities for education,[43] thus depriving inmates of one main means of preventing re-offending. His reports have revealed, for example, that only 30 out of 200 young inmates had access to education in one institution.[44] Access to education depends on the budgetary situation of specific prisons or can be rendered non-existent by lack of space. The orientation towards security and the legal heritage of prisoners having privileges rather than rights do not create an education-friendly environment. The lack of possibilities to secure their livelihood legally - for which education is essential - returns released inmates back to prison. This proverbial vicious circle is difficult to break. The Chief Inspector of Prisons has a number of ideas for improvement, some of which do not require any additional financial resources and can actually result in savings. One of these is to convert prisons from "schools of crime" into "schools-out-of-crime" by encouraging prisoners to teach other prisoners.

(c) Travelling communities

60. Gypsy and Traveller children are especially disadvantaged in education, there are data indicating that half of them may be classified as having special educational needs.[45] Special funding, known because of its legislative basis as "Section 488 grants", has been allocated to provide additional help for Gypsies, Travellers and refugees. Initiatives have been undertaken to improve the school performance of Travellers but inadequate emphasis has been placed on the attitudes of the majority, both teachers and learners. An ongoing review of the curriculum has emphasized freedom from discrimination and stereotyping, as well as the need to recognize diversity and inclusiveness.[46]

61. The Government has emphasized its efforts with respect to education of Gypsy and Traveller children in its report under the Convention on the Rights of the Child, but the Special Rapporteur is concerned about the formulation used, whereby these children "are entitled to have access to schools in the same way as all other children".[47] For travelling communities, access to schooling which does not accommodate the children's lifestyle entails a rupture and questions the enjoyment of their freedom of movement and residence. The movement of Travellers' families can be involuntary when they are evicted because their residence has been determined to

be illegal. Children's school attendance is necessarily interrupted, while two government policies (the suppression of illegal camping and the enforcement of school attendance) undermine each other.

62. The multi-layered discrimination which affects Gypsy communities, coupled with the inter-generational transmission of the lack of access to education and thus the demand for it, constitutes, in the view of the Special Rapporteur, a typical case where the spirit and the wording of the Convention on the Rights of the Child mandate rights-based education. The small numbers of the Gypsy and Travelling communities facilitate a focus on the rights and the best interests of the child.

(d) Children with physical and learning disabilities

63. The Disability Discrimination Act is gradually being implemented and a Disability Rights Commission is expected to be established in April 2000. The Government has committed itself to reviewing all education policies for their implications for children with special educational needs,[48] thus implicitly responding to the critique that the impact of the league tables has been to penalize schools' investment in learners with disabilities and thus to hamper the adaptation of mainstream schools to children with disabilities, segregating them in special schools.

64. Entitlements for learners with special needs to additional help depend on their being "statemented". This un-English linguistic construct denotes that such pupils are issued with a statement which formally affirms their special educational needs. A fairly large proportion of learners of compulsory school age (250,000 or 3 per cent) are "statemented" giving them an entitlement to have these special needs met.[49] This effort by parents to secure an explicit entitlement for their children testifies to the fact that special educational needs may otherwise remain unmet. This is also affirmed in the large numbers of expulsions from school of learners with special needs. In the Special Rapporteur's opinion, such a rationale highlights the importance of the best interests of each child as guidance for education.

2. University education

65. The introduction of tuition fees for university education defied the explicit requirement of the International Covenant on Economic, Social and Cultural Rights (art. 13.2 (c)) that access to higher education should be determined by individual capacity, while equal access should be secured through progressive introduction of free education.

66. The tuition fee of £1,025 for an academic year (25 per cent of the average tuition costs) and the conversion of previous grants into loans has made studying expensive. Student loans were introduced in 1990 and administered by the Student Loans Company, wholly owned by the Government. As of September 1994, student grants were reduced and then phased out, a new student loan scheme was introduced in September 1998. It allows students access to income-contingent loans, repayable after graduation.

67. The funding of university education has been shifted towards students (and their parents), with diminishing public funding. Tuition fees were introduced just one year after the previous

Government had announced that it "had no plans to make students contribute to their fees".[50] A part of the background to the introduction of fees was consecutive reductions in public funding for universities: the public funding per student was halved and research replaced teaching as the main basis for the funding of universities. Another part of the background was the widespread perception of university education as being elitist. The Dearing Report (the report of the National Committee of Inquiry into Higher Education) reasoned that students were benefiting because their degrees improved their employment prospects and led to higher salaries, hence graduates should retroactively contribute to the cost of their education. The proposal was to introduce loans, which would be repayable after graduation and after the graduate began earning an income that would not make the repayment too burdensome.[51]

68. Tuition fees are paid in full by one third of students. One third - with lower incomes - pay a proportion of the fees, and one third of students, from the lowest income category, are exempt from payment. The money generated by tuition fees was intended to be used to broaden access to university education. A frequent diagnosis was that access to university education necessitated "being male, attending a selective school and having parents in professional/managerial occupations".[52] The Government therefore pledged "increasing and widening participation, particularly from groups who are under-represented in higher education, including people with disabilities and young people from semi-skilled or unskilled family backgrounds".[53] A great deal of concern has been expressed about the effect being opposite to this government pledge. While it is much too early for any conclusive assessment, the initial data released by the Universities and Colleges Admissions Service (UCAS) on enrolments in 1998 point out that half (53 per cent) of all admissions to university degree courses originated from the highest two classes (Professional and Intermediate), by far exceeding their representation in the general population and affirming that the most significant predictor of access to university education is socio-economic status.[54] The number of 1998 admissions for the highest (Professional) category showed only a slight decrease (-2.4 per cent) in comparison with 1997. A larger decline in the number of admissions (-5.9 per cent) was revealed for the lowest (Unskilled) category.[55] It bears repeating that the novelty of tuition fees and student loans makes any such data only tentative, but worrisome because they do not point in the direction of enlarging access to university education for the poorest, as was intended.

69. The Special Rapporteur deems that the Government's pledge to equalize - not only maximize - participation in university education requires putting into practice its commitment to use "funding as a lever for change"[56] so as to overcome the financial obstacles in accordance with their size, namely investing the most in those whose access is the most hampered.

C. Acceptability

70. Criteria for acceptability of education are monitored and enforced by the Office for Standards in Education, known by its acronym OFSTED, through inspections. The purpose is to ensure that those schools that are defined as falling below minimal acceptability (called "failing schools") are officially warned so that measures could be undertaken to improve them, or they are closed down. The Government's often repeated statement is that poverty is no excuse for failure, requiring schools to offer an acceptable educational performance regardless of the poverty of their pupils or the school's own facilities.

1. Non-English-speaking learners

71. Unlike the United Kingdom, England is perceived as a unilingual country, although a range of languages has been introduced through migration. These are indirectly detected through the association between ethnic and linguistic minorities. However, the term "linguistic minorities" is never used nor is there legislation addressing discrimination on the grounds of language.

72. Instruction is provided in English and the obstacle which this constitutes for learners with English as their second or third language is acknowledged through compensatory measures to facilitate their learning English. Because English is one of the subjects in which learners are tested from the age of 7 (along with Mathematics and Science), it is likely that underperformance in these tests may not reflect the learners' aptitude for schooling, but rather the fact that English may be their second or third language. Private investment in bilingual education has proved beneficial, with bilingual learners outperforming unilingual English speakers.[57]

73. The level of fluency in English has been identified as an important determinant of learners' performance, although it tends to be subsumed under racial or ethnic difference. Identifying "EAL pupils" (those with English as Additional Language) and helping them to overcome linguistic obstacles avoids mistaken attribution of their problem to race or ethnicity or learning difficulties. What became known as "section 11 grants" (based on section 11 of the 1966 Local Government Act) provided funding for additional recruitment to assist non-English-speaking learners. This funding does not seem to meet the existing demand, which itself has been incompletely identified because the recording of mother tongue on admission to school pertains to data that are provided on a voluntary basis.

74. It can be inferred which languages are the most widespread from the choice of languages made by the Home Office in which to promote electoral registration: Bengali, Chinese, Greek, Gujerati, Hindi, Punjabi, Turkish and Urdu.[58] The Special Rapporteur heard about the difficulties encountered by teachers of Somali, Romani or Albanian children and assumes that a frequent estimate that 800 languages are spoken in London alone may be accurate.

2. Teenage pregnancy

75. An ongoing government initiative is aimed at reducing the number of teenage pregnancies, as well as the social exclusion of teenage parents, almost exclusively mothers. In his foreword to the Teenage Pregnancy Report, the Prime Minister called it the country's "shameful record".[59] England's statistical profile reflects a gulf which divides it from continental Europe, as well as revealing problems within education. The paucity of sex education in primary schools in one facet; the prospects and role models for the category still referred to in popular parlance as "working class girls" is another.

76. This government's initiative requires no less than breaking the vicious circle of mutually reinforcing influences driving girls to pregnancy and childbearing while they are still children. The geographical profile of teenage pregnancy is well known (it is six times higher in the poorest than the richest areas) as is the profile of teenage mothers: they are 10 times as likely to

originate from a family classified as "unskilled manual" as from one classified as "professional", twice as likely to have been in care, fostered or raised by a teenage mother and to have left or been expelled from school.

77. Career prospects remain gender-stereotyped. Almost half of women work part-time and tend to be segregated into jobs in sales or work as check-out assistants, clerks or secretaries. Although girls outperform boys in tests assessing their educational accomplishment, they are nevertheless doomed to low-paid, low-skilled, low-status occupations.[60]

78. The Special Rapporteur has noted that the term "gender" is used in some Government publications and not in others, it is notably missing from some addressing teenage pregnancy.[61] The biological fact that girls get pregnant (while boys do not) has slanted the prevention of pregnancy towards girls and defined contraception as a female concern. Many statutory and voluntary services are run by women and target only girls; medical doctors in general practice can only provide contraceptive services to boys at the boys' own expense because they are reimbursed only for contraceptive treatment of women.

79. The role of schools in imparting self-protection knowledge and skills is left to individual schools. Primary schools are required to have a policy on sex education, this policy can be not to have any sex education. The 1993 Education Act mandated publicly-funded secondary schools to provide sex education (not defining what should be taught, how and by whom) and affirmed the parents' right to exclude their children from sex education. Where provided, sex education remains an extra-curricular subject, often incorporated in the broader subject of personal, social and health education. Many disincentives hamper the introduction of sex education[62] and do not seem to be effectively addressed.

80. The Special Rapporteur is fully aware of the obstacles that ought to be overcome, and that have been overcome in many countries. Governmental human rights obligations stemming from the best interests of the child and the goal of gender equality impose upon the Government the obligation to take the lead in overcoming such obstacles.

D. Adaptability

81. The adaptation of education to changes in society and in the economy is a constant process and requires comprehensive and continuous monitoring of influences on education, as well as the influence that education is expected to have in furthering change.

1. From sex to gender

82. Inequalities span the individual and structural levels and a great deal of effort is necessary to differentiate between the two. Recording inequalities requires delineating different grounds of discrimination that may be detected in access to schooling, treatment in school, outcomes and impact of schooling. The insistence of the Convention on the Rights of the Child on the rights and the best interest of each individual child requires differentiating between structural and individual factors so as to identify and address obstacles at both levels.

83. Data on school performance highlight boys' underachievement, both in the white and non-white population,[63] turning around a frequent gender stereotype whereby girls' performance should be improved. Single-sex schools constitute 5 per cent of all schools (more often girls' than boys' schools) and they continue because "evidence suggests that girls are particularly likely to do well in single-sex schools".[64] In co-educational schools, 85 per cent of teachers are women, which probably constitutes one of the reasons for the educational under-performance of boys. The advantage of shifting emphasis from sex to gender is, in the Special Rapporteur's view, that it requires studying both sexes, as well as their relationship, and spans learners and their teachers.

2. Oscillating purposes of education

84. The uniform verification and evaluation of the educational performance of learners and schools prioritizes subjects which yield easily to quantification, as well as methods of instruction which facilitate learners' success in testing. The underlying rationale has been the focus on basic knowledge (the three Rs). The National Advisory Committee on Creative and Cultural Education has pointed to culture and creativity as general functions of education,[65] emphasizing that education was undermined by the rationale, structure and prescriptive nature of the curriculum. The continuous presence of religious education in the curriculum and pastoral care in school add a spiritual dimension. The planned introduction of citizenship education anticipates adding some content of human rights education to the curriculum.

85. The process of designing citizenship education was ongoing at the time of the Special Rapporteur's mission and the outcome was not yet known. She is concerned about the image of human rights in the preparatory documents, which may become reflected in the future curriculum. It seems to her that "human rights" are perceived as different from and alien to the rights and freedoms that learners will recognize in their everyday lives - their rights as subjects of the right to education, as future employees, as future parents or voters. "Human rights" seems identified with international issues and foreign countries and dissociated even from concepts such as equal opportunities and gender equality.[66]

86. There is a great need to introduce human rights education that would respond to everyday problems. The Commission for Racial Equality has pointed to the "rising levels of openly acknowledged racial prejudice",[67] which raises concerns about the absence of countervailing influences in education. The Chief Inspector of Schools has emphasized that one in five schools pays too little attention to non-European cultures.[68]

87. Individualism and competitiveness as root values clash with solidarity and community. Parents' concerns about the educational attainment of their own children easily leads to ability-based screening and the consequent exclusion of less able children. Inequalities between learners and schools tend to become accentuated and exacerbated, not perceived as a human rights issue that ought to be addressed so as to familiarize children to accepting and assisting their peers, but rather as a legitimate differentiation enhancing individualism and competitiveness. This has created a paradox: schools are expected to instil values of solidarity and individual competitiveness at the same time.

VI. CONCLUSIONS AND RECOMMENDATIONS

88. Education has been prioritized by the Government both domestically and internationally, but international and domestic features of education are conceptually distinct. The rights-based approach is promoted at the international level, while silence prevails with regard to the right to education and even more with regard to rights in education at the domestic level. The Special Rapporteur fully supports the Government's conceptual shift to rights-based education and hopes that this could provide a welcome opportunity for its introduction at the domestic level.

89. The Government deserves a great deal of credit for launching rights-based education, thus moving towards incorporation of human rights in mainstream development cooperation, and for the parallel focus on increasing resources necessary to translate into practice the right to education. Translating human rights into sectoral and country strategies cannot be fast or easy. The Special Rapporteur commends the Government for starting this process and, as she stated during her mission, is willing to assist the Government in every possible way.

90. The profound change stemming from making the European Convention on Human Rights directly applicable has opened the way for broadening and deepening human rights protection on the basis of regionally (and perhaps later globally) developed international human rights law. This will gradually transform and internationalize English education law. The Special Rapporteur sees in this change an opportunity to broaden the existing image of human rights. The Convention on the Rights of the Child seems a particularly well-suited starting point as it offers learners, from the youngest age, a clear and easy identification with its spirit and wording and the immediate possibility of its translation into practice through the creation of a human-rights-friendly school. The Special Rapporteur is also concerned about the inherited legal status of the child as the object of a legally recognized relationship between the school and the child's parents rather than the subject of the right to education and of human rights in education. She hopes that the spirit and wording of the Convention on the Rights of the Child will gradually influence English educational policy, law and practice.

91. The long heritage of all-encompassing compulsory education in England leaves few categories of children without access to school. The Special Rapporteur deems that closing these gaps deserves priority. In two cases - children deprived of their liberty and Traveller children - schooling ought to be provided where the children are. This requires imagination, flexibility and - most importantly - the Government's political and financial commitment to ensuring that education is available, accessible, acceptable and adaptable. Multiple discrimination is routinely found in the chain of causation which deprived such children of education, thus triggering the full range of human rights obligations relating to the eradication of discrimination.

92. The Special Rapporteur suggests that the forthcoming introduction of citizenship education in compulsory schooling should be used as an occasion for overcoming widespread misperceptions whereby, for example, gender equality is perceived as distinct from racial equality while both are seen as distinct from human rights. Moreover, the choice of citizenship education provides an opportunity for delivering the message that children are citizens rather than citizens-to-be. The inter-relatedness of human rights makes it possible to build conceptual bridges between different forms of discrimination, their causes, effects and impact, and to develop comprehensive human rights education aimed at addressing and redressing everyday issues that learners can easily identify with.

93. The link between education and employment (evidenced by a governmental structure in which a single ministry deals with both) has constituted the pillar of the Government's policy, with a clear commitment to enable people to become economically self-sustaining. The orientation of education towards enhancing individual competitiveness has resulted in competition between children and their schools. The Special Rapporteur is concerned about the effects of competitiveness on children with disabilities. In her opinion, inclusiveness requires enhancing the adaptation of schooling to children with disabilities.

94. The image of education as an investment in future earnings is clearly reflected in the introduction of tuition fees for university education. The apparent discrepancy between this change and the wording of the International Covenant on Economic, Social and Cultural Rights deserves more attention than it has received thus far. This change does not diminish the Government's human rights obligations relating to availability, accessibility, acceptability and adaptability, however. The Special Rapporteur is particularly concerned about access to university education for those who cannot afford its direct and opportunity costs and urges the Government to prioritize its commitment to utilize funds generated within education to improve accessibility for disadvantaged categories. Moreover, education is at the same time a human right and a traded service (both domestically and internationally) and thus the affirmation of the right to education and human rights in education acquire increased importance.

95. The Special Rapporteur suggests that a review should be undertaken of the notion of social exclusion from the human rights perspective, inspired by the advantage that would ensue from a focus on governmental human rights obligations. The cumulation of different grounds of discrimination, reinforced by class, requires unravelling the causes and contributing factors at the structural rather than at only the individual level. The Special Rapporteur feels that concepts such as "ethnic minority" (which merges race, colour, ethnicity, provenance, religion, language and social origin) or "social exclusion" (which combines an unpredictable set of phenomena within an unclear conceptual framework) hide more than they reveal. The advantage of applying existing international human rights law lies in its comprehensive delineation of the prohibited grounds of discrimination and the corresponding governmental obligations which, in the case of racial and gender discrimination, envisage structural alongside individual measures for the elimination of discrimination.

96. The conceptual framework for addressing differences in school performance between girls and boys could benefit from a shift of emphasis from sex to gender, and from a focus on all the human rights of girls and women, not only those in education. A gender analysis of education could facilitate the ongoing search for strategies to improve the school performance of boys, which is hampered by the previous emphasis on girls. The high percentage of female teachers in primary schools illustrates advantages that would ensue from the notion of gender balance. Post-schooling prospects for girls undermine the value of their educational performance, much as it is initially superior to that of boys. Too many slide into early pregnancy, single motherhood and the associated diminution of academic, vocational and professional opportunities. The inter-relatedness of human rights provides the comprehensive conceptual framework necessary to address such issues, which reach far beyond the sector of education.

97 The Government's overriding objectives in education are to raise standards for all learners, to tackle underachievement and to improve the performance of all learners, often expressed as the creation of a world-class education service. These objectives, admirable as they are, direct attention to output at the expense of a diminished concern over inputs (especially where they are needed to overcome the intergenerational transmission of disadvantage) and the process of education. The Special Rapporteur feels that a focus on the right to education provides a useful approach to broadening the common narrow - and erroneous - view of human rights as safeguards against governmental abuse of power to encompass governmental human rights obligations aimed at equalizing opportunities for the exercise of equal human rights. The closely related notion of rights-based education facilitates examination of the process of education from the viewpoint of rights and duties, freedoms and responsibilities of all relevant actors.

Notes

[1] The 1944 Act stated: "it shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability and aptitude", while the 1996 Act has only slightly altered that formulation: "the parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise".

[2] The then Secretary for Education, Kenneth Baker, introduced the Educational Reform Bill to Parliament thus: "We must give consumers of education a central part in decision-making. That means freeing schools and colleges to deliver the standards that parents and employers want." House of Commons, 1 December 1987, col. 771-772.

[3] English, Mathematics, and Science are core subjects and learners are tested against curriculum standards at ages 7, 11 and 14. The eight foundation subjects are History, Geography, Design and Technology, Information Technology, Music, Art, Physical Education and a modern foreign language. Religious Education is mandatory in primary schools, and sex education in secondary schools. Parents are entitled to withdraw their children from both.

[4] The Government's Annual Report 98/99, July 1999, pp. 15-16.

[5] Prime Minister's speech at the London School of Economics on 18 June 1999.

[6] Department for Education and Employment, The National Learning Targets Action Plan, London, March 1999, p. 4.

[7] Learning Works. Widening Participation in Further Education, report by Helena Kennedy for the Further Education Funding Council, June 1997, p. 6.

[8] H.M. Treasury and Department for International Development, "Debt relief and poverty reduction: a UK submission to phase 2 of the HIPC Review", London, July 1999, para. 25.

[9] Foreign and Commonwealth Office and Department for International Development, Human Rights. Annual Report for 1999, July 1999, pp. 11 and 15.

[10] Committee on Economic, Social and Cultural Rights, Concluding observations United Kingdom of Great Britain and Northern Ireland, E/C.12/1/Add.19 of 12 December 1997, para. 10.

[11] The reservation was made on 20 March 1952 with regard to the provision of article 2 of the first Protocol to the Convention which states that the State shall respect the right of parents to ensure that their children's education conforms to their religious and philosophical convictions, to specify that this principle is restricted by its compatibility with "the provision of efficient instruction and training and the avoidance of unreasonable public expenditure".

[12] Second Report to the UN Committee on the Rights of the Child by the United Kingdom, The Stationery Office, London, August 1999, p. 114.

[13] OECD, Human Capital Investment. An International Comparison, Paris, 1998, p. 37.

[14] The 1944 Education Act posited that "local education authorities shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents". This provision was repeated in the United Kingdom's reservation to the right to education in the first Protocol to the European Convention on Human Rights. Thereafter, this reservation created a great deal of debate concerning its nature and scope. It was initially defined as guaranteeing parental preference, then, gradually, as affirming parental choice. The 1994 Parent's Charter attempted to affirm parental choice, stating: "As a general rule, you now have a right to a place in the school you want, unless all the places at the school have been given to pupils who have a stronger claim for a place at that school." (Department for Education, Our Children's Education. The Updated Parent's Charter, London, 1994, pp. 9-10.)

[15] The Code of Practice for Admissions (issued by the Department of Education and Employment in 1998) allows individual schools "a fairly wide discretion", mandating them to use criteria which are objective, clear and fair. Admissions should not breach legislative prohibitions of racial and sex discrimination, but parents are allowed to exercise their preference even where it entails discriminatory effects. The Commission for Racial Equality highlighted a case (R v. Cleveland County Council ex parte CRE) in which parental choice of school by the criteria of racial and/or ethnic composition of learners was upheld. The rationale was that a subsequent education law prevailed over an earlier prohibition of racial discrimination. Commission for Racial Equality, Reform of the Race Relations Act 1976 (Summary), 30 April 1998.

[16] Parents can challenge a decision whereby their child is not admitted to the school of their preference through judicial review, which focuses on the procedure rather than the substantive criteria. The exercise of the statutory powers of the local education authorities can also be challenged through an application to the Commission for Local Administration in England

[17] Department for Education and Employment, Excellence for All Children Meeting Special Educational Needs, green paper, October 1997, para 5

[18] Committee on the Rights of the Child, Concluding observations (CRC/C/15/Add 34 of 15 February 1995, para 32)

[19] Department for Education and Employment, Home-School Agreements Guidance for Schools, London, 1998, p 13

[20] Department for Education and Employment, Social Exclusion Pupil Support, London, July 1999, p 12

[21] The Social Exclusion Unit, set up by the Prime Minister in December 1997 and reporting directly to him, defines social exclusion as "a shorthand term for what can happen when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environment, bad health, poverty and family breakdown", London, May 1999

[22] By the criterion of social class, individuals are classified into five categories The highest is Professional (I), followed by Intermediate (II) and Skilled Non-Manual (IIN), which are followed by Skilled (IIIM) and Partly Skilled Manual (IV), the lowest being Unskilled (V)

[23] The Commission for Racial Equality proposed in January 1998 that specific legislation be adopted to combat religious discrimination This proposal seems to have been suspended until an 18-month study into religious discrimination is finalized Annual Report of the Commission for Racial Equality January to December 1998, p 31

[24] Committee on the Elimination of Racial Discrimination, Concluding observations United Kingdom of Great Britain and Northern Ireland, CERD/C/304/Add 20 of 23 April 1997, para 4

[25] The 1991 population census introduced nine categories (White, Black Caribbean, Black African, Black Other, Indian, Pakistani, Bangladeshi, Chinese and Other) for which statistical data are available Unlike the population census, the school census makes the collection of data on ethnicity, religion and language optional The source of such information is parents rather than learners, and parents exercise their choice in cooperating or not

[26] Committee on the Rights of the Child, Initial report of United Kingdom of Great Britain and Northern Ireland, CRC/C/11/Add 1 of 28 March 1994, paras 92-94

[27] Department for Education and Employment, "Minority ethnic pupils in maintained schools by Local Education Authority Area in England - January 1999 (provisional)", London, 30 June 1999 Such data are derived from the annual school census and are reproduced as reported by schools

[28] Drew, D and Gray, J, "The fifth year examination achievements of black young people in England and Wales", Educational Research, vol 32, No 3, p 114

[29] Prime Minister's introduction to The Government's Annual Report 98/99, July 1999, p 6

[30] David, M E, The State, the Family and Education, Routledge, London, 1980

[31] Office for Standards in Education, The Annual Report of Her Majesty's Chief Inspector of Schools 1997-98, p 61

[32] Bridging the Gap - New Opportunities for 16-18 Year Olds not in Education, Employment or Training, report by the Social Exclusion Unit, presented to Parliament by the Prime Minister, July 1999, pp 71-73

[33] Committee on Economic, Social and Cultural Rights, Third periodic report of the United Kingdom of Great Britain and Northern Ireland, E/1994/104/Add 11 of 17 June 1996, para 254

[34] H M Treasury, Persistent Poverty and Lifetime Inequality - The Evidence, London, March 1999, para 3 06, p 29

[35] Department for Education and Employment, National Learning Targets - Action Plan, London, March 1999, p 2

[36] The Government's Annual Report 98/99, July 1999, pp 9 and 20

[37] Truancy and School Exclusion, report by the Social Exclusion Unit, May 1998, para 2 1, "Permanent exclusions from schools in England 1997/98 and exclusion appeals lodged by parents in England 1997/1998", Department for Education and Employment, SFR11/1999, 16 June 1999

[38] "Permanent exclusions from schools in England 1997/98 and exclusion appeals lodged by parents in England 1997/98, DfEE Statistical First Release", 16 June 1999

[39] Truancy and School Exclusion, report by the Social Exclusion Unit, May 1998, para 2 23

[40] Committee on the Rights of the Child, Initial report of the United Kingdom of Great Britain and Northern Ireland, (CRC/C/11/Add 1 of 28 March 1994, paras 67-73)

[41] Youth Justice Board for England and Wales, Annual Report and Accounts 1999, p 22

[42] Ibid , p 32

[43] Her Majesty's Chief Inspector of Prisons, Annual Report 1997/98, pp 30 and 32

[44] Report on an unannounced short inspection of H M young offender institution Werrington, 2-4 June 1998, by H. M Chief Inspector of Prisons, para 3 41

[45] Office for Standards in Education, "Raising the attainment of minority ethnic pupils - School and LEA responses", paras 8 and 36-38

[46] The proposed new curriculum refers to "citizenship education, including the study of the nature of democracy and its institutions and the rights and responsibilities of all members of society" which highlights the difference between citizens and other members of society Department for Education and Employment, The review of the national curriculum in England The consultation materials, May-July 1999, p 4

[47] Second Report to the UN Committee on the Rights of the Child by the United Kingdom, The Stationery Office, London, August 1999, p 146

[48] Department for Education and Employment, Excellence for All Children Meeting Special Educational Needs, Green Paper, October 1997, para 4

[49] The Government has openly acknowledged that parents seek statutory statements because this may be "the only route to funding to meet children's needs" Department for Education and Employment Excellence for All Children Meeting Special Educational Needs, Green Paper, October 1997, appendix 2, para 1

[50] Committee on Economic, Social and Cultural Rights, third periodic report of United Kingdom of Great Britain and Northern Ireland (E/1994/104/Add 11 of 17 June 1996, para 231)

[51] The Dearing Report, recommendations 78 and 79

[52] Gillborn, D and Gipps, C , Recent Research on the Achievements of Ethnic Minority Pupils, OFSTED (Office for Standards in Education), London, 1996, p 6

[53] Department for Education and Employment, Higher Education for the 21st Century Response to the Dearing Report, London, 1998, p 3

[54] Department for Education and Employment, National Adult Learning Survey 1997 Summary, London, 1998, p 11

[55] Universities and Colleges Admissions Service, Statistical Bulletin on Widening Participation, No 1, 1999, p 6

[56] Department for Education and Employment, Further Education for the New Millennium Response to the Kennedy Report, London, 1998, p 12

[57] Gillborn, D and Gipps, C , Recent Research on the Achievements of Ethnic Minority Pupils, OFSTED (Office for Standards in Education), London, 1996, pp 14 and 26

[58] Committee on the Elimination of Racial Discrimination - Fourteenth periodic report of United Kingdom of Great Britain and Northern Ireland, CERD/C/299/Add 9 of 2 December 1996, para 42

[59] Teenage Pregnancy Report, presented to Parliament by the Prime Minister by command of Her Majesty, Cm 4342, June 1999, p 4

[60] M Arnot and Others, Recent Research on Gender and Education Performance OFSTED (Office for Standards in Education), 1988, p 68

[61] The Teenage Pregnancy Report utilized the word "gender" only once, when describing the part of the national curriculum for science for 14-16-year-old learners which teaches them how sex is determinant in human sexual reproduction, as opposed to asexual reproduction which produces clones

[62] "Many of those involved in SRE are concerned that those who innovated would become the subject of unwelcome media attention Several school heads said that although they were proud of the quality of their school's SRE, they did not want, for this reason and because of the possible reaction from parents, to become known as 'good schools' for sex education." Teenage Pregnancy, Cm 4342, June 1999, p 40.

[63] The Chief Inspector of Schools has pointed out weak literacy skills among boys in both primary and secondary school Office for Standards in Education, The Annual Report of Her Majesty's Chief Inspector of Schools 1997-98, pp 23, 33 and 37

[64] Committee on the Elimination of All Forms of Discrimination against Women, third periodic report of the United Kingdom of Great Britain and Northern Ireland, CEDAW/C/UK/3 of 31 July 1995, p 49 and 55

[65] All Our Futures Creativity, Culture and Education, NACCCE report, May 1999, para iii

[66] Qualifications and Curriculum Authority, Education for Citizenship and the Teaching of Democracy in Schools Final Report of the Advisory Group on Citizenship, London, 22 September 1998, p 44

[67] Annual Report of the Commission for Racial Equality, January to December 1998, p 3

[68] Office for Standards in Education, The Annual Report of Her Majesty's Chief Inspector of Schools 1997-98, p 30